BRADY'S
INTRODUCTION
TO OLD
ENGLISH HISTORY

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AN INTRODUCTION TO The Old English History,

Comprehended in Three ſeveral

TRACTS.

The *FIRST*,

An *Anſwer* to Mr. *Petyt's Rights of the Commons Aſſerted*; and to a BOOK Intituled, *Jani Anglorum facies Nova*; The Second Edition very much Inlarged.

The *SECOND*,

An *Anſwer* to a Book Intituled, *Argumentum Antinormanicum*, much upon the ſame Subject; Never before Publiſhed.

The *THIRD*,

The Exact HISTORY of the *Succeſſion* of the *Crown* of *England*; The Second Edition, alſo very much Inlarged.

TOGETHER WITH

AN APPENDIX

Containing ſeveral RECORDS, and a SERIES of Great *COUNCILS* and *PARLIAMENTS* Before and After the Conqueſt, unto the End of the Reign of *HENRY* the Third.

AND A

GLOSSARY

Expounding many Words uſed frequently in our Antient *RECORDS*, *LAWS* and *HISTORIANS*.

Publiſhed for the *Vindication* of *Truth*, and the *Aſſiſtance* of ſuch as deſire with *Satisfaction* to Read, and truly Underſtand the Antient Engliſh Hiſtorians, and other Pieces of Antiquity.

By ROBERT BRADY, Doctor in Phyſick.

LONDON: Printed by *Tho. Newcomb*, for *Samuel Lowndes*, over againſt *Exeter Exchange* in the *Strand*. MDCLXXXIV.

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The EPISTLE TO THE Candid READER.

I Have Intituled these several Discourses, *An Introduction to History*; for indeed so they are, if we observe the Things themselves, and not the Method. *Introductions* I know are Written after another manner; but as to the *Matter* here treated of, whoever reads our Old Historians, and hath not a true Understanding and Apprehension of it, neither can he truly, and as he ought, understand them, nor will he ever be able to *arrive* at the Knowledge of our *Ancient Government*, or of what Import and Signification the Men were that lived under it according to their several Denominations; of what Power, and Interest they were, what they did, and how they behaved themselves; nor who, nor what they were, that *contended* with our Ancient Kings about *Liberty*, and Relaxation of the Government, nor indeed what truly the Liberties were they contended for. This last particular will be more fully cleared, in the Preface to the first Volume of the History of *England*, and in the Reigns of King *John* and *Henry* the Third, which shall (God willing) be published next *Michaelmas* Term.

The true Originals of Things having been neglected and forgotten in many Nations, several Conjectures have been introduced in stead of them,

which never had ſuch beginnings, nor never were known or thought of at the time when they were ſaid to be done or uſed, by ſuch Men as in writing and reporting of them, have pleaſed their own Fancies, ſerved an Intereſt, or perſued an Humour, rather than Truth. A

The old *Romiſh Clergy* at firſt, in whoſe Management were all the Affairs of the Nation, out of Deſign, to *Bowe* the *Secular Government*, and make it *Truckle* under *Holy Church*, and by that means under themſelves, publiſhed many Popular Notions concerning Eccleſiaſtick and Secular Liberty in thoſe Antient Times, and raiſed up thereby the *Barons* and *Military Men*, to break the King's Power, and leſſen his Authority, that by their Aſsiſtance they might obtain Dominion over him. B

Theſe *Popular Notions* have ever ſince been kept up according to the ſound of the Words they were firſt delivered in, by ſuch as *Succeeded* thoſe *Clergy-Men* in their *Places* and *Offices*. Though many of the Things then contended for, were either for ever ſufficiently ſecured; and others not long after irrevocably vaniſhed; and were all of ſuch a Nature, or ſo Eſtabliſhed, as afterward there could be no Controverſie about them, yet the *Words* having been retained, and uſed, and interpreted according to vulgar Acceptation, 'tis ſcarce credible what *Miſchiefs* and *Bloodſhed* they have occaſioned in *Succeſſive* Ages, even to our own Days. C D E

And upon theſe, and ſome *Parcels* of *Sentences*, ſome *Popular Scraps*, and *Shreds*, taken out of the *Beginning*, *Middle*, or *Later End* of a Period, without any reſpect to the Matter Treated of in Old Hiſtorians, or Records, have been built miſtaken Notions, falſe Conceptions, and apprehenſions F

ſions of Antient Things and Story, and obtruded upon the World as the true ſenſe and meaning of them.

A I eſteem it a great Happineſs and Bleſsing to the People of *England*, that they *injoy* more *Liberty* and *Freedom* than all the People in the World beſides. I wiſh they had more, if there can any thing be added to it, that would not make them *Lawleſs* and *Licenticus*, and the *Mobile* and *Factious* incontroulably inſolent.

B Two ſorts of *Turbulent* Men there are in the World, who under *plauſible Pretences* have appeared for the *Liberty* of the People, or indeed the *Change* of the Government. That they might *inveſt* themſelves with ſuch Power and Authority, as might afC terwards make them *ſubmit* to their *Dictates*, *Wills*, and *Pleaſures*, though never ſo *Arbitrary*, *Tyrannical*, *Injuſt* and *Cruel*; for in that all the fair and ſmooth Pretences of ſuch Men do conſtantly terminate.

D One of theſe ſort of Men preach to the *People*, *That the Origin of all Power and Government is from them; That Kings or Magiſtrates derive their Authority from them; That they have none, nor more than what they give them; That they are their Servants, Inſtruments, Executors and Truſtees only,* E *and accountable to them for Male-Adminiſtration, and may be Tryed, Sentenced, Depoſed, or put to Death by them, or ſuch as they ſhall Impower or Authorize to that purpoſe, that is, themſelves.* Theſe Men are Pretenders to *Platonic* and *Eutopian* GoF vernments, ſuch as never had a *Real Exiſtence* in any part of the World, nor never can be practicable amongſt any People, or in any Nation whatſoever; yet are ſpecious *Baits* to hook in *Unſtable*, *Unwary*, *Fluttering* and *Malitious* Men.

The

The other sort are such as hold forth to the People, *Ancient Rights* and *Privileges*, which they have found out in *Records*, and *Histories*, in *Charters*, and other *Monuments* of *Antiquity*; by these Men the People are *taught* to prescribe against the Government for many Things they *miscal* Fundamental Rights; by these Men 'tis averred, that under the phrase of *Baronagium Angliæ*, both Lords and Commons were Comprehended; That *Proceres & Magnates* are Words of large extent; That the *Plebeians*, and *Ordinary Freeholders* (according to the Modern Denomination) were such. That there were *Barones Regis, & Barones Regni, Milites, & Libere Tenentes qui de Rege Tenent in Capite, & Milites, & Libere Tenentes de Regno*; And, That the later were the Men of *Mark* and *Note* in the great Councils of the Kingdom. That the word *Baro* was applicable to the whole People, the Body of *Freeholders*, especially, as assembled in Parliament. That all *Proprietors* of Land, all *Probi Homines*, or *Bonæ Conversationis*, came to great Councils as Members, in their own Persons; That all such were *Nobiles*. That *Ordinary Freeholders* often came to *General Councils* of the Kingdom, without *Special Election* or *Representation*; That upon a *Change* in the *Succession* to the Crown, there might be *Extraordinary Conventions* of the People to *declare* their *Universal Consent*, for better *assuring* such *Successors*; and That this was an *Elective* Kingdom, which as often as they have opportunity they cunningly insinuate, though they do not plainly *assert* it in terms.

By all which *sly* and *malicious* Insinuations, and many more of the like Tendency, they indeavour to *undermine* the Government, and so infuse Dangerous

gerous Notions of *Soveraingty* and *Power* into the Peoples Heads, which they *never had*, or *enjoyed*, nor can be *capable* of *managing* in any Government in the World.

A Any Man that shall observe, what the last Men craftily drive at, and *compare* it diligently with what the former assert, will not find much *Difference* in their *Principles* and *Designs*.

For the defence of Truth, and the *Detection* of these Men, and for no other purpose, and of their B *partial Citations*, *Falsity* in *leaving* out and *adding* what they please, *Mis-Applications*, *false Interpretations*, *wilful Wresting* and *abusing* of *Records*, and *History*, (seeing no other Person did *undertake* them) I have written these *Tracts* to *undeceive* the People, C and to shew them, That really they were not *possessed* of these *Pieces* of *Soveraignty* and *Empire* antiently, nor of such *share* in the *Government*, as these *Unquiet*, *Tumultuous* Men endeavour to make them believe they had, and still ought to have.

D In the Name of God let the English People enjoy all their *Just*, *Due*, *Legal Rights*, *Liberties* and *Privileges*, and let them never be *disturbed* in the present Establishment of more Freedom to them, than all the Subjects in the World do enjoy, so long as they remain *Quiet* and *Obedient* to the *Go-* E *vernment*; Let them enjoy every thing whereto the KING or His *Antecessors* have given their *Consent*, and that hath been *Allowed* and *Owned* by *Usage* and *Practice* many *Centuries* of Years, and found *Agreeable* to the *Interest* of *Prince* and F *People*; for all *Liberty* and *Freedom* is *Founded* upon the *Ease*, *Happiness*, *Repose* and *Safety* of both: And when *Liberty* is *used* with *design* to *supplant* and *destroy* the *Government*, 'tis then *Sedition*, and

ought

ought to be *reſtrained* by ſuch *legal*, *prudent*, and *juſt Ways* and *Means* as the *Government* ſhall think fit, to *obviate* the *Deſigns* and *Contrivances* of ſuch Men, and fully to *Eſtabliſh* and *Secure* it ſelf.

I have followed and traced theſe Men in all their *material* and *moſt ſpecious Citations*, and do leave it to the *Indifferent* and *Judicious* Reader to judge, whether I have not ſufficiently diſcovered their *Ignorance* and *partiality* in, or *wilful miſ-application* of them; and alſo ſhewn their *Arts* and *Deſigns* (though at diſtance) to *Batter* and *Bomb* the Government, and *diſturb* the *peace* and *quiet* of the Nation; eſpecially if it be conſidered at what time theſe Men were *moſt buſie* of themſelves, if not *imployed* by others in this Service.

As to my own *Citations*, if any Man thinks I have not been *every way faithful* in them, they are ſo *particularly* noted, as it may with the greateſt eaſe imaginable be diſcovered, (unleſs happily the Printer hath miſtaken;) and whoever ſhall *make* ſuch *Diſcovery*, let him be as *ſevere* upon me as he pleaſe, I ſhall not take it ill, but rather *return* him *thanks* for his pains. Before the *uſe* of them, I conſidered again and again whether I *might* not be miſtaken in their *true meaning*, and likewiſe conſidered all *Circumſtances*, and compared them with other *Relations* of the *ſame Times* and *Things* wherever I could find them.

I ſhall not inlarge further upon the great *Uſe* and *Advantage* Thoſe that read *Old Hiſtorians* may make of theſe Diſcourſes, but leave that to the *Judgment* of *Underſtanding* Readers.

A *FULL* and *CLEAR*

ANSWER

TO A

BOOK,

WRITTEN BY

William Petit Esquire,

ENTITULED,

The RIGHTS *of the* COMMONS *Asserted*,

Printed in the Year 1680.

By which it appears,

That he hath *Mistaken* the *Meaning* of the *Histories* and *Records* he hath *Cited*, and *Misapplied* them: And that he hath *Added to*, or *Taken from* them, or *left Unrecited* such *Words* and *Matters* as he thought would either *Advance*, or *Destroy* his *Assertion*.

With a True *Historical Account* of the *Famous COLLOQUIUM* or *PARLIAMENT*, 49 *Hen.* III.

Together with

Some ANIMADVERSIONS upon a BOOK,

CALLED,

JANI ANGLORUM FACIES NOVA,

With many Additions to them both.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes*, over against *Exeter-Exchange* in the *Strand*. MDCLXXXIII.

AN ADVERTISEMENT TO THE Impartial and Judicious READER.

IF I prove tedious to him, I must say, I could not help it. For I have made more large Recitals and Translations of some *Records* and *Histories* than otherwise I would have done, being forced thereto, by the *Authors* often Jumbling, two *Records*, and *Different Parts* of *History* together, and making but one of them. By his *Partial Citations* and *Expositions*; By his *Taking In*, and *Leaving Out*, what he judged was *For*, or *Against* him; and By his *Publishing* only *Ends* and *Shreds* of *Records* and *Histories*, where he found any thing, that did but *sound like* what *he Thought* might maintain *his Assertion*. The *Records* I have used, are Faithfully Cited; and likewise the *Historians*, who are such as lived in the *Times*, when the *Things* I *Vouch them for*, *were Acted*, or who are of the *Best Authority* or *Credit*, or such as Lived very near the time of the *Things Done*; whose *Writings*, in very many things, do agree with the *Publick Records*, as to the *Matter* and *Time*, Though not to the *Form* and *Composure*; and This I Affirm from my own Collating, and Comparing of them.

THE INTRODUCTION.

P. 1. MR. Petyt *having produced Matter of Fact only for the Confirmation of his Assertion, my principal Design in this following Discourse is to shew, That the Matter of Fact was not such as he pretends and avers it to have been, and to discover the true meaning of our excellent English Records and Histories, for the benefit of such as intend understandingly to read them, and to detect his* Partial Citations *and* Concealments *of the greatest parts of them, he hath made use of, which would have destroyed his Assertion, and to rescue these Sacred things from* Groundless *and* Designing Interpretations, *I follow his own Method, and do affirm,*

P. 1. 1. *That the* Commons *of* England Represented *by* Knights, Citizens, *and* Burgesses *in* Parliament, *were not introduced, nor were one of the Three* Estates *in* Parliament *before the 49th of* Henry III.

P. 2. 2. *I* affirm, *That before that time, the* Body *of the* Commons *of* England, *or* Freemen *(as now understood, or as we now frequently call them)* collectively taken, *had not any* share *or* votes *in making of Laws for the* Government *of the* Kingdom, *nor had any Communication in Affairs of State, unless they were represented by the* Tenents in Capite.

These two Propositions are plainly laid down, and contradictory to what he confidently avers he hath proved.

P. 2, 2. *To discover therefore and refute the unsoundness of his Assertions, and that what I affirm may appear to be true, I shall follow his course, and first by way of Answer to his, make good my second Position, before I answer his first Assertion; and do*

P. 4. *hope to evince, That he hath said nothing to prove, That during the* British, Saxon, *and* Norman *Governments, the* Freemen *or* Commons *of* England, *as now called and distinguished from the great Lords, were* Pars Essentialis & Constituens, *an Essential and Constituent part of the* Witena-Gemote, *Common Council, or Parliament in those Ages.*

AN

AN ANSWER TO A BOOK, WRITTEN BY William Petit, &c.

First, *Under the* Britiſh *Government.*

TO prove this Aſſertion under the *Britiſh* Government, our Author cites part of the Anſwer of Pope *Eleutherius*, to the Epiſtle of King *Lucius*, who (as 'tis fabled) ſent to him for the *Roman* Laws to Govern his Kingdom by; and ſays, That the Pope, who could not be ignorant of the Conſtitution and Frame of the *Britiſh* Polity, writes back to him, *Habetis penes vos in Regno utramque paginam, Ex illis Dei gratia per concilium Regni veſtri ſume legem, & per illam, Dei potentia veſtrum rege Britanniæ regnum.* Theſe words by the frequent Texts of Scripture that follow in the Anſwer ſhould be thus rendred, *You have with you in your Kingdom both the Law and Goſpel, out of them by the Grace of God, and Council of your Kingdom take a Law, and by that in the Power of God Rule your Kingdom of* Britain. What is this to either of your Aſſertions? You ſay little elſe upon this Head. *What is this to the Commons being an Eſſential part of the* Britiſh *Councils or Government?* How doth it prove it? but beſides the Author Sir *Henry Spelman* from whom he had this fragment, ſays, King *Lucius*'s Epiſtle is no where to be found, and that the pretended Anſwer to it is a Forgery, and worthily for theſe Reaſons, Firſt, *For that* Lucius *had no need to write to* Rome *to* Eleutherius *for the* Roman *Laws, when they were Eſtabliſhed here before that time in* Britain *under the* Roman *Preſident. For every* Colony *of the* Romans *was but an Image of the Mother City with like Holy Rites, like Courts, Laws,* &c. And the famous *Roman* Lawyer *Papinianus*, the chief Miniſter of Juſtice under *Geta* had his Tribunal at *York.* Tacitus *ſays that the* Britains *affected* Roman *Language and Eloquence*, Roman *Habits, and frequent uſe of the Gown,* Roman *Pleaſures, Diet,* &c. *built Temples and Courts of Juſtice*; *and 'tis moſt probable they alſo affected* Roman

P. 4.

Concil. Tom. 1. f. 31. 34, 35. The Anſwer to King *Lucius*'s Epiſtle a Forgery.

Lipſ. de Magnitud. Rom. lib. 1. c. 6. Dio Caſſ. fol. 868. In vita agric. c. 21. The *Britains* affect *Roman* Manners and Cuſtoms.

Roman *Laws for which the Language and Rhetorick were most useful.* Secondly, For that this Answer ascribed to *Eleutherius* makes *Lucius* Monarch of *Britain*, and takes no notice of the *Roman* Dominion here. Thirdly, The word *Manutenere* used in it, is of *Norman* Extraction, and a legal word brought hither by the *Normans* many hundred years after *Eleutherius* his being Pope. Fourthly, The places of Scripture cited in this Answer are taken out of the Translation of St. *Jerome*, who lived almost two hundred years after *Eleutherius*. A

P. 4. The Government of the *Britains* not certainly known by Mr. *Petyt*.

Immediately after this Citation, he adds, *But what the Laws and particular Government of the* Britains *were is very uncertain, because the Histories of their Country (if any were) could not be found*, &c. How then can this Author know that the Commons made an Essential part of their Government, when he knows not what the Government was, which yet in the next page he says is certain and not to be denied that in the Elder time it was so, and for this Reason because *Xiphilin* out of *Dio Cassius* says in the Life of *Severus*, *Apud Britannos populus magnâ ex parte principatum tenet*: With the *Britains* the People had a great share in the Government; be it so, yet 'tis very probable these were the great People, the Chief amongst the *Britains*; and that too when the *British* Monarchy was baffled, distracted, and destroyed by the *Roman* Power. *Tacitus* informs us otherwise in the Life of *Agricola*, an hundred years before *Severus*; *Britanni olim regibus parebant* (says he) *nunc per principes factionibus & studiis trahuntur.* In times past the *Britains* obeyed their Kings, and lived under Monarchy. Now they are drawn into Factions and Parties by their Chiefs and Great Men; and by the time of *Severus* some of the Governments might degenerate into a Populacy or a Compound Government of Aristocracy and Democracy; but if so, it makes nothing for this Gentleman, *he having undertaken to prove that under our* British, Saxon, *and* Norman *Monarchies the People distinguished from the Nobility, or as he calls them great Lords, were an Essential and Constituent part of their great Councils and Government.*

P. 5.

C. 12.

The State of the Question, p. 3 & 7.

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Secondly,

Secondly, *Under the* Saxon *Government.*

FRom the *Britains* he proceeds to the *Saxons*, who he says when they made themselves Master of the *British* Nation, brought their Country Laws with them; of which there can be no doubt (as I shall make it clear upon another occasion (but not their popular Government) and brings the Authority of *Tacitus* to prove that the Commons were an Essential and Constituent part of their Common-Council: *De minoribus rebus Principes consultant, de majoribus omnes, ita tamen ut ea quoque quorum penes plebem arbitrium est, apud Principes pertractentur.* Of lesser matters the Chief of the People Consult, of the greater All; yet so as those things of which the lowest part of the People are Judges, are first treated of by the better sort; and these were the Councils of the *German People in General*, not of the *Saxons*, which name is not to be found in all *Tacitus*; but what if it be granted, that those *people* which were afterward called *Saxons*, were Governed by such Councils? *was not this Government a Democracy?* and the People so far from not having their Votes and Shares in these Councils, as only they had Voices in them, and if any had any more power here than others, they were the Priests, who were a sort of *Chairmen* in them, *Commanded silence*, and *had* a *Coercive power*, *Silentium per Sacerdotes, quibus tum & Coercendi jus est, imperatur.* In these Governments no man can doubt of the Suffrages of the People; but under such as he mentions, our Author would scarce be contented to live, where the Priests bare so much sway, where there were no *Cities* or great *Towns*, but only scattered Houses and Habitations by Rivers, Fields, and Woods, made of Dirt, or Clay, Arms of Trees, and Stubble, where there was no *Literature*, especially amongst the People, nor scarce *Civility*, where there was no Cloathing but with Garments made of Beasts Skins, no Food but Milk, Pulse, and Flesh, without Art or Cookery, where there was no Propriety in Lands, no Money, no Work for Lawyers, as he will find, if he reads on in *Tacitus*, and the 6th Book of *Cesar's Commentaries.*

P. 6.

De mor. German. c. 11.

The Priests had the chief management of the German Popular Governments. Ibid.

In those Governments no Literature, no Civility, Cities, Towns, Propriety, &c.

These Councils which were held by the small Popular Governments in old *Germany*, (for to such Governments they must be referred, seeing they frequently were convened on certain Days, either in the New or Full of the Moon, unless some fortuitous and sudden matter happened) are the Platform he mentions in the next page. *When he says the* Saxons *under a sole Christian Monarch still continued and kept their Ancient Wittenagemotes or Parliaments, wherein they made Laws, and managed the great Affairs of King and Kingdom*, according to the Platform of their Ancestors; and to evidence this he pretends many instances might be given, but produces only three or four.

Ibid.

P. 7.

His first instance is in a Common Council, called by *Ethelbert*, which *Spelman* mentions thus, *Anno Dominicæ incarnationis* 605. Ethelbertus *Rex in fide Roboratus Catholica una cum* Berta *Regina filioque ipso* Eadbaldo *ac reverendissimo præsule* Augustino *Caterisque optimatibus*

P. 7. Spel. Concil. vol. 1. fol. 126.

A great Council called by *Ethelbert*, A. D. 605.

timatibus Terræ Solentitatem Natalis Domini Celebrant Cantuariæ, *Convocato igitur ibidem Communi Concilio tam Cleri quam populi.* In the year of our Lord 605. King *Ethelbert* being confirmed in the Catholick Faith, together with his Queen *Berta*, and his Son *Eadbald*, and the most Reverend Bishop *Augustin*, and the other great men of the Land, did celebrate the Solemnity of the Nativity of the Lord at *Canterbury*, having assembled a Common Council there of the Clergy and People, or *Laity*, for so *Populus* signifies here, and always does when *Clerus* and *Populus* are only used together, and thus contra-distinguished; then they are Expressive of two different Estates or Conditions of Men or Christians, the *Clergy* and *Laity*, or *Secular men*, and those were *optimates terræ, the chief men of the Land*, as before expressed; neither was this Council held under a sole *Saxon* Monarch (*as he states his Assertion, and brings this first instance to prove, That the Commons were an Essential and Constituent part of the Common Councils under sole* Saxon *Monarchs*;) But under *Ethelbert* King of *Kent* only, and that but eight years after *Augustins* coming hither, and above Two hundred years before the seven Kingdoms were united into one Monarchy.

Vide, here in a great Council held by *Ethelbert* King of *Kent*, A. D. 605.

A

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Lamb. fol. 148.

Sir *Hen. Spelman* had his Story out of that Auctuary as appears by the Citation in his Margin. Mr. *Petyt* takes his instances from Parcels of an idle Story.

The second and third instances being indeed but one and the same, he picks out of an idle Story in the additions to, or surplusage of the 35 Law of *Edward* the Confessor, and to be found in Sir *Henry Spelman* in the place he cites, *but suspected, and not approved by him.* I must cite the whole Tale, to let the Reader see what Instances he useth, and how he applies them; which is to be found in the following words in the Law before cited. *Ina Rex Anglorum qui Electus fuerit in Regem per Angelum, & qui primo obtinuit Monarchiam totius Regni hujus, post Adventum Anglorum in Britanniam, primus enim Rex fuit Coronatus Anglorum & Britonum simul manentium in Britannia, post adventum Saxonum Germaniæ, cepit enim in uxorem suam Gualam nomine propter quam vocata est Wallia illa Terra, quæ quondam vocabatur Cambria; Bigamus enim fuit, cepit autem cum ultima uxore sua Cambriam & Cornubiam, & Coronam benedictam Britanniæ que fuit ultimo Cadwallado Regi Britanniæ, Et universi Angli qui tunc temporis extiterunt, uxores suas, ceperunt de Britonum genere, Britones uxores suas, de illustri sanguine & genere Anglorum hoc est de genere Saxonum.* **Hoc enim factum fuit per commune Consilium & assensum omnium Episcoporum & Principum Procerum Comitum, & omnium sapientum, seniorum & populorum totius Regni, & per preceptum Regis Ine predicti.** *Multi vero Angli ceperunt uxores suas, de sanguine & genere Anglorum Germaniæ, & quidam Angli ceperunt uxores suas de sanguine & genere Scotorum, proceres vero Scotorum, & Scoti fere omnes, ceperunt uxores suas de optimo genere & sanguine Anglorum Germaniæ; Et ita fuerunt tunc Temporis per universum Regnum Duo in Carne una, & taliter constituit rectum conjugium (& Delevit fornicationem & immunditiem à regno) & recta judicia pro stabilitate Regni, & confirmatione populorum, benigna sedulitate, & tali modo effecti fuerunt gens una, & populus unus per universum Regnum Britanniæ miseratione Divina.*

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The Fabulous Story of King *Ina*.

Which Fictitious nonsense is thus Translated word for word; *Ina*, King of the *Engish*, which was elected King by an Angel, and who first obtained the Monarchy of this whole Kingdom, after the coming

ing of the *English* into *Britain*, for he was the first Crowned King of the *English Britains*, living together in *Britain* after the coming of the *Saxons* of *Germany*; for he Married *Guala* by name, from whom that Land was called *Wales*, which was sometimes called *Cambria*; he was twice Married, and had with his last Wife, *Wales*, *Cornwal*, and the Blessed Crown of *Britain*, which was *Cadwalladers* the last King of *Britain*. And all the *English* to a Man took their A Wives from the Race of *Britains*; and the *Britains* their Wives from the illustrious Blood and Stock of the *English*, that is, of the Stock of the *Saxons*. For this was done by the *Common Council and Assent of all the Bishops, Princes, great Men, Earls, and of all the Wisemen, Seniors, or Aldermen, and People of the whole Kingdom*; *and by the command of King* Ina *aforesaid*. But many of the *English* Married into the Blood and Race of the *English* of *Germany*, and some *English* took their Wives from the *Blood* and *Stock* of the *Scots*, B but the *Great Men* of the *Scots*, and almost all the *Scots* took their Wives from the best Stock and Blood of the *English* of *Germany*; and so there were at that time through the whole Kingdom two in one Flesh, and thus he constituted true Wedlock (and extirpated Fornication and Uncleanness out of the Kingdom) and right Judgments, for the stability of the Kingdom, and Confirmation of the People, by a kind Care and Diligence, *and so they were made one Nation, and one People through the whole Kingdom of* Britain *by* Di- C vine Mercy.

And of the grand League of the *Britains*, *Scots*, and *Picts*, the Author mentions, p. 8, 9.

This whole Story is very idle, (nor should I have much taken notice of it, but to let the World see what Histories he Trades in.) First here is King *Ina* elected by an Angel; who is bound to believe that? Then *Ina* who was King only of the *West-Saxons*, is here said to be Monarch of this whole Kingdom, and first Crowned King of the *English* and *Britains*; a meer Invention: It appears D not to be so in any Historian; *Geofrey* of *Monmouth*, *Caradac* of *Lancarvan*, *Humfrid Lluid*, and *David Powel* the four famous *British Historians*, are either silent in this matter, Judge it to be suspected, or affirm *Ina* to be only King of the *West Saxons*; next, 'tis here said he Married *Guala*, Daughter to *Cadwallader*, who was his last Wife, from whom *Wales* had it's name, and had with her as by Inheritance, *Wales*, *Cornwal*, and the *Blessed Crown of Britain*; a direct Forgery. For first, to let *Guala* pass (whose very existence E *H. Lluid* judgeth to be a Fiction) *Wales* never had its name from her, but from the *Saxon*, *Wealh*, which signifies a Stranger; And both the *Britains* and their Language being Strange to the *Saxons*, they called them *Wealhs*, or Strangers, having driven them into those parts of *Britain*, now called *Wales* and *Cornwal*, as several of our best *British* and *English* Historians inform us.

Wales had not it's name from *Guala*. Descript. of *Wales*, p. 2. *Som. in Gloss. in verbo Wallicus.* But from the *Saxon* word *Wealh*. *H. Lluid*, *D. Powel*, *W. Lambard*, and Mr. *Camden*. *Saxon Annals* and *Florent. Wigorn.* in that year.

Secondly, *Ina* began his Reign *An. Dom.* 689. and was neither F King of *Britain*, or *Wales*; For at that time [1] *Ethelred* the Son of *Penda* was King of *Mercia*, and after him *Cenred*; [2] *Alfred* or *Ealdfrith* was King of *Northumberland*. [3] *Withred* King of *Kent*. And in the year 710. *Ina* and his Kinsman *Nun* fought with *Gerent* King of *Wales*. And besides these instances all our Historians agree, That [5] *Egbert*, who began his Reign, *An. Dom.* 800, 73 years after the death of *Ina*, was our first *Saxon* Monarch; The *fictitious non-*

1 *Saxon* Annals, A.D. 704.
2 Ibid. A. D. 705. *Bedes.* Eccl. Histor. f. 345. 347.
3 *Sax.* Ann. A.D. 694. 625.
4 Ibid A. D. 710.
5 Ibid. A. D. 800.

The Intermarriages of the *British*, *English*, and *Scots*, which Mr. *Petyt* calls the Great Union, are fictitious Nonsense.
P. 8, 9.

sense of the *Intermarriages* between the *British*, *English*, and *Scots*, is not worthy any serious mans notice; and yet this Gentleman calls them a *Grand League* and *Union* between the *Britains*, *Saxons*, and *Picts*, and grounds his third *Instance* upon it, saying, That Grand League and Union was concluded and confirmed, *per commune Concilium & assensum omnium Episcoporum, Procerum, Comitum, & omnium Sapientum seniorum & populorum per præceptum Regis Inæ.* The very words he hath taken out of the *Body* of this *Fable* to serve his purpose, which he cites both in this and the forgoing Instance. And that he might the better make two instances out of one, and *Deceive* his *Reader*, he cites *Bede*'s *Ecclesiastick History*, lib. 1. for the Report of this League and Union, where, if he finds it, he hath better luck than I have.
P. 8.

A

Now what follows, but that if this Story be idle and fabulous, it would be as idle a thing for any man to think, there was ever so grave, so solemn an Assembly convened, to contrive, frame, and ordain it: and the truth is, this Gentleman, if he had pleased, might have seen this same Council rejected as it were by his own Author Sir *Henry Spelman*, *De secundo seu ultimo hoc conjugio Inæ Regis*, &c. concerning this second or last Marriage of *Ina* King of the *West-Saxons* (saith he) with *Guala* the pretended Daughter of *Cadwallader* King of the *Britains*, and from thence the name of *Cambria* being changed into *Wales*, I find no mention of it in any approved Author, or that *Ina* had any * other Wife than *Ethelburg*, which was certainly his last, and she, as appears by her name, a *Saxon*; for when he at *Rome* took upon him the Habit of a *Monk*, she was made a Nun, and at last *Abbess* of *Barking*, in which Habits they both died; and adds further, that for the Time and Authority of this Council, he could say nothing. And I do affirm, That of the many Councils collected in this Volume by him cited, there is not the word *populus* to be found either in the Title, Preface, or Body of any of them, except only in this spurious one, or any thing that tends towards the proof of the *Commons* of those times to have had any share of making Laws in those Councils.

B

C

D

Concil. vol. 1. fol. 220. The Tale of *Guala* not allowed by Sir *Hen. Spelman.*

* See *Monast. Angl.* vol. 1. f. 14. n. 40. to the same purpose. King *Ina* and his last Wife, *Ethelberg*, both died in Monastick Habits.
Nota.

The fourth *Instance* he hath out of the *British Antiquities*, A. D. 905. *Plegmundus Cantuariensis Archiepiscopus una cum Rege magnifico cognominato Edwardo seniore*, **Concilium magnum Episcoporum, Abbatum, fidelium, Procerum, populorum in Provincia Gerbicorum Convocant**, &c. *Unde salubriter constitutum est, in hâc Synodo, ut pro duobus Episcopis, quorum unus Wintoniæ, alter Sireburniæ sedem habuit, Quinque crearentur Antistites, ne grex Domini pastorum curâ orbatus, Luporum Lanienæ & voracitati subjicerentur.* That is in the year of our Lord 905. *Plegmund* Archbishop of *Canterbury*, together with the magnificent King *Edward*, surnamed the *Elder*, called a great *Council*, of the *Bishops*, *Abbots*, *Tenants* in *Capite* or *Military Service*, *Noblemen* and *People* in the Province of the *West-Saxons*, when it was wholsomely ordained in this *Synod*, That instead of two *Bishops*, one whereof had his Seat at *Winchester*, the other at *Sherborn*, there should be *Five* created, lest the *Flock* of the *Lord* being without *Pastors*, should become a prey to voracious and devouring Wolves.

P. 9. fol. 75. A great Council, A. D. 905. *procerum & populorum.*

Why the word *Fidelium* is thus turned, see *Glossar.*

E

F

The

The occasion of this Council, as 'tis storied, was a chiding and threatning Letter from Pope *Formosus* to King *Edward*, That if there were not Bishops appointed in such places as there had been formerly, both he and his should be subject to his *Malediction*. *Qua de causa* (says the *British Antiquities* in the same Folio from whence this *Instance* is taken, N. 30.) **Edwardus Rex Synodum prædictam Nobilium Anglorum congregavit cui præsidebat Plegmundus.** For which cause (to wit, as 'tis there said for fear the Pope should curse him and his Subjects) King *Edward* called the foresaid *Synod* of *English Nobility*, wherein *Plegmund* presided; Here his own Author tells us in few words, the meaning of the long Title of this *Synod*, which just before he had mentioned, *viz.* that the *Bishops*, *Abbots*, **Fideles**, *Proceres*, & **Populus**, were all **Nobiles**, **Noblemen**, That is the *Ecclesiasticks* and *Laics*, or the *Bishops*, and *Lay-Nobility*, as will be made more evident in this Discourse hereafter; and not the *Vulgus*, *Commons*, or ordinary sort of People.

Vid. *Monast. Angl.* vol. 1. f. 220. col. 2.

Populus interpreted by the Relator, and in the Relation of the same Council.

And to this effect *Malmsbury*, the Manuscript in the *Bodleian* Library cited by *Dugdale*, and the MS. in the Treasury of the Records and Evidences of the Church of *Canterbury*, cited by Sir *Hen. Spelman*, all report of this very Council, That *Edwardus Rex congregavit Synodum Senatorum gentis Anglorum cui præsidebat Plegmundus*, &c. That King *Edward* convened a *Synod* of the *Senators*, (in *Saxon* the *Aldermen*) of the *English* Nation, That is, such as were usually called to such Councils, which were only the *Nobiles* and great Men, for ought yet appears from this Instance. But further, all these Authors say, this Synod was called upon a Letter the King received from Pope *Formosus* in the year 905. There was but one Pope *Formosus*, and he died *December* 14. 895. ten years before this Synod is said to be called, and so perhaps there was never such a Letter written, nor such a Synod called, and consequently no such Title of a Synod. For all these Authors (to whom I appeal) report nothing else done in this Synod, then making or naming five Bishops, as is above related; Though our Author affirms there were several Laws then made, which if he can, he ought to make good to save his Credit.

De gest. Reg. fol. 26. a. n. 30, 40. Monast. Angl. vol. 1. fol. 220. col. 2. n. 10. Concil. vol. 1. fol. 387. Earls and great Officers of the Kingdom.

Onuphr. Chro. Pontif. Rom. fol. 27. 'Tis probable there was no such Council, A. D. 905.

P. 10.

After these Instances, he says, *William* of *Malmsbury*, calls a *Saxon Wittena-Gemote*, * *Generalis Senatus & populi conventus*. There is no need to be taken how our old Monks and Historians stiled the *Saxon Wittena-Gemotes*, or their great and *Common Councils*, for the same Authors expressed them some time one way, some time another; nor were they ever exact and curious in observing and noting the *Title* or the *Constituent parts* or *Members* of them: our Author himself hath reckoned up above forty Denominations of the *Saxon Wittena-Gemotes*, or great *Councils* and *Parliaments*, and might have given us many more; and if he will frame an Argument from the Appellations of them, it must be against himself; for amongst those he hath mustered together, there are not above two or or three he can pretend to make use of, and they, truly understood, signifie nothing to his purpose; all the other are directly against him; as the Reader may note if he please.

* De gest. Reg. lib. 3. fol. 56. a. n. 30.

No heed to be taken how the old Monks and Historians stiled a *Saxon Wittena-Gemote*.

As appears by his own shewing, p. 97.

P. 10. vid. Glossar.

Gloss. fol. 161. col. 1. p. 10. *ut supra.*

See *Folk-mote* in the *Glossar.*

To this he adds the Description of a *Folkmote* or Convention of the People, out of Sir *Hen. Spelman*, *Conceals the Title* of it, and imposeth it upon his Readers as a *Wittena-Gemote*, a Convention of the Nobles or Wisemen. This being the same with the *English Saxons*, that a Parliament is with us, and called at the *Will* of the *King* in *Contingent Difficulties*, or for making of Laws, whenas the *Folkmote* was at least *annual*, and met upon the same certain Business. So much of the Description, as he useth, runs thus, The *Chief* of the *Kingdom met*, as well *Bishops* as *Magistrates*, and *Freemen*, they consult of the Common safety, of Peace and War, and Promoting the Common profit or Benefit. He leaves out of this Description the great Design of this *Folk-mote*, which was to Swear Fealty or Fidelity to the King, to serve him faithfully, and defend all his Rights against his Enemies and Strangers; and picks out of it what he thought would be most for his purpose. From these Fragments, and doubtful Expressions (of which his Instances consist) *It is apparent*, he says, *and past all contradiction, that the Commons in those Ages were an Essential part of the Legislative Power in making and ordaining Laws.* A B

Ll. Gul. 1. c. 52. Ll. *Edw.* c. 35. in Auctar.

P. 12.

The Prefaces of the *Saxon* Laws declare what sort of people were the Constituent parts of their *Wittena-Gemotes.*

We have many of the *Saxon Laws* extant made during the *Reigns* of several of our *Saxon Monarchs*; in the Prefaces whereof, we are told, by what *Authority*, what *sort* of *People*, and by whose advice they were made. Why did not this Gentleman raise his Proofs from hence? Why did he leave the Kings High-way and walk in by-paths? to find and cull out some *slight Sentences* and *careless Expressions* that sound like something he would assert, and leave all the substantial and valuable Instances behind him which are contrary to his Assertion. What I find in the *Saxon* Laws, I shall briefly recite in opposition to what he maintains. C

Saxon Annals in those years, *Lamb. Saxon Laws*, fol. 1.

First, *Ina* who began his Reign *An. Dom.* 689. and ended it 728. in the Preface to his Laws says, *I* Ina *by the Grace or Gift of God, King of the* West-Saxons, *with the Advice and Instruction of my Father* Kendred *and* Hedde *my* Bishop, *and* Erchenwold *my* Bishop, *and all mine* Aldermen, *and* Tham Ylderstam Witan Minre Theod, *the principal or chief Senators or Wisemen of my Nation, and also the great Assembly of Gods Servants* (the Clergy then so called) *meditating the Health of our Souls, and upon the Estate or Establishment of our Kingdom, have Established Right* * *Laws, and Right Government through our Nation.* D E

* 'Tis in the *Saxon*, *Æw Nuptiæ*, but seeing there is no Law for Marriages amongst these, I took it to be misprinted for *Æ Leges*, and have so translated it.

(a) *Lamb.* fol. 22. *Ælfrid* began his Reign, A. D. 871.

Ibid. fol. 36.

a *Ælfred* after him, by the advice and assistance of his Wisemen *Mid Witena Getheate*, surveyed all the Laws of *Ina*, *Offæ*, and *Ethelbert*, and such as he liked, he ordered to be observed, and others he caused to be laid aside, and then shew them to all his *Wites*, *Noble*, or *Wisemen*, who liked they should be observed. Also in the League between him and *Guthrun*, it is thus recorded, *This is the Peace that* Ælfrid *King, and* Guthrun *King, and all the* English Wites, *and those of the* East-Angles *have declared.* F

Ibid. fol. 41. He began his Reign, A. D. 900.

The *Constitutions* between *Edward* the Elder, and *Guthrun*, were approved by the *Wites* or *Wisemen* on both sides.

Æthelstan

Æthelstan made his *Laws* in the *Micel Synod* at *Greatan-Leage*, and there was *Wulfhelm* his Archbishop, all his *Optimates*, *Noblemen*, *Wites*, or *Wisemen*, by him Convened. Ibid. fol. 53. He began his Reign, A. D. 924.

King *Edmund* deliberated and made his *Laws* by the advice of his *Wites* or *Wisemen*, both Ecclesiastick and Laics. Ibid. fol. 58. He began his Reign, A. D. 940.

A King *Edgar* ordained his *Laws*, with the advice of his Wites or Wisemen only. Ibid. fol. 62. He began his Reign, A. D. 959.

King *Ethelred* and his Wites made his Laws only. Ibid. fol. 88. A. D. 979.

King *Cnute* or *Canute* made his *Ecclesiastick* and *Secular Laws* by the advice of his *Wisemen* or *Wites* only. Ibid. fol. 97 & 107. He began his Reign, A. D. 1016.

B Besides these, I shall present the Reader out of History with some other of the great *Councils* or *Witena-Gemotes* in the *Saxons* time, by which he may understand whether 'tis probable they consisted of *Nobles* and *Commons*, or *Nobles* only. From History 'tis clear of what people the *Witena-Gemotes* consisted.

Withlaf King of *Mercia* signed his large Donation to *Croyland* Abby, before the *Bishops* and *Great Noblemen* of all *England*, who met at *London*, *An. Dom.* 833. to consider how to prevent the *Danish* Piracies. *Ingulph's* Hist. fol 488. n.30. *Withlaf* was a Tributary, and under the Power of *Egbert, Dominus ejus*, ibid. n. 50. He was Tributary to *Ethelwolph.*

C

Bertulph King of *Mercia* his Successor confirmed and enlarged that *Donation* before the *Bishops* and *Nobles* of his whole *Kingdom*, being the *Common Council* of his Kingdom, with the consent of that whole Council, *A. D.* 851. Ibid. b. n. 40. ibid. 489. a. n. 30.

Edred King of all *England*, gave the *Monastery* of *Croyland* to Abbat *Turketul*, and his Monks, by his Charter dated, *In Festo Nativitatis B. M. Virginis An. Dom.* 948. **Cum universi magnates Regni per Regium Edictum Summoniti, tam Archi-Episcopi, & Episcopi & Abbates, quam ceteri totius Regni proceres & optimates Londonijs Convenissent ad tractandum de negotijs publicis totius Regni.** That is in the Feast of the *Nativity* of *Blessed Mary* the *Virgin* in the year of our Lord 948, when as all the *Great Men* of the *Kingdom*, were summoned by the *Kings Edict*, as well the *Arch-Bishops*, *Bishops*, and *Abbats*, as other *Noble* and *chiefest Men* of the whole Kingdom, and met at *London* to treat of the publick Business of the whole Kingdom. Ibid. 490. a. n. 20, 50. Ibid. fol. 497. a. n. 40, 50. Note who were *Magnates Regni. Totius Regni proceres & optimates.*

D

E

Where are the *Commons* to be found in any of these **Great Councils**, or **Witena-Gemotes**, or any that Represented them? Here are only mentioned **Arch-Bishops, Bishops, Abbats, Aldermen, Wites, Great Men, and Chiefest Men, Noble-Men.** These were all the orders of Men that were Constituent parts of these **Great Councils** or **Gemotes.** And if the **Commons**, as now taken and understood, ever were Members of them, they must be comprehended amongst the *Wites* or *Sapientes* the *Wisemen*; But that it cannot probably be so, I shall note: No Commons to be found in the *Saxon* great Councils or *Witena-Gemotes.* Nor any that Represented them. The Commons not comprehended amongst the *Wites* or *Sapientes* in the *Saxon* Councils.

F

First,

First, That most of the *Saxon Laws* in their Prefaces are said to be made, and ordained by their Kings, with the advice and assistance of their *Wites* or *Wisemen* simply, without mentioning any particular *Orders* of *Men* whatsoever. And when any *Ranks* or *Degrees* of Men are particularly mentioned, they are only **Arch-Bishops, Bishops, Aldermen, Great Men, Wites, Chief-men, Noble-men,** as before rehearsed, both **Ecclesiastick and Laick.** A

Secondly, I shall Note, that it cannot be denied but in every one of these **Witena-Gemotes, Wicel Synods, Wicel Gemotes,** or **Great Councils,** where the *Laws* are said to be made only by the *King* and *Wites* or *Sapientes*, without particularizing any Degrees of Persons, the *Bishops*, *Abbats*, and *Great Clergy-men*, *Aldermen*, and *Gereves*, were there at the making of them; and also the honorary *Thegnes* or *Thanes*, and the *Judges*, if any there were of the higher Class, other than *Bishops*, *Aldermen*, and *Gereves* or *Præpositi*. B

And, *Thirdly*, I shall Note, that it follows from thence, that these all *joyntly* were the **Sapientes,** where there are only **Wites** or **Sapientes** in general named, without reciting any particular Orders or Degrees of Men.

See *Sapientes* in the Glossary.

This is clear of it self, yet for the greater satisfaction of any that can doubt of it, I shall in the **Glossary** give many particular Examples of the meaning of **Wita, Witan, Sapientes,** &c. out of the *Saxon Laws*, and our approved ancient Authors, by which it will manifestly appear, That the **Commons,** especially as now taken and understood, cannot be comprehended under those Words. C

See vit. *Ælfred*, lib. 2. in the Epilogue fol. 124.

Yet notwithstanding what is here, and will be further cleared and proved in the Glossary, by giving the true meaning of the Words *Witan*, *Wites*, or *Sapientes*, That they in the *Saxon Witena-Gemotes*, were only *Arch-Bishops*, *Bishops*, *Masse-Thegnes*, or *Dignified* and *Great Clergy-men*, *Aldermen*, or *Comites Kings-Gereves* or *Prepositi*, *Kings-Thegns*, *Thanes*, or *Ministers*, his *Counsellors*, *Judges*, or *Magistrates*. If this Gentleman can shew from good Authority (better than any he hath yet produced) That any of the **Commons** Sate in these *Great Councils*, at least to **Represent** the **Body** of the **Commons** of the **Saxons**, I will submit, and yield, That during the *British* and *Saxon* Governments, the *Freemen*, or *Commons* of *England*, as now called and distinguished from the *Great Lords*, were an Essential Constituent part of the *Witena-Gemotes* or *Common Councils* of those Ages; as this Gentleman avers, and labours to prove by such Arguments, as I hope I have fully answered. D E F

William

William the *Conqueror.*

FRom the *Saxons* we proceed to the *Normans*, where I find this Gentleman, as indeed there are many more, mightily possessed with the **Lenity** of *William* the *Conqueror*, for such he must be notwithstanding what is said by him, That he disown'd his Conquest, or rather submitted his Government and Scepter to the *Saxon* Law, *and from this or nothing, he infers the Commons to be an Essential part of the great Councils, but with what consequence the Reader is to judge*; however I will examine the easiness and kindness of **William** in denying the length of his Sword, and the Arguments he brings to confirm his Opinion; I leave his ridiculous Notation of the word *Conquestor*, and pass to the Reasons for his Opinion.

P. 17, 18, 19, 20, 21, 22, &c.

William the First obtained this Land by Conquest, and Governed it accordingly.

First, he says, 'tis recorded in *Domesday* Book, that *King William* had certain Lands in Demesne, the Lands which were in the hands of *King Edward*, and intituled, **Terre Edwardi Regis**, and other Lands which were forfeited by him, by those who took part with **Harold**, intituled **Terre Regis.** This he hath out of Sir *John Davis*'s *Irish Reports*, fol. 41. a. b. And it is a great mistake; for *there is no such Title in that Book as* **Terre Regis Edwardi**; Of **Terre Regis** there is, first in every County in the top of the Leaves, which were the Lands of the *Conqueror*; for the truth of this I appeal to the Books. Here also he affirms *King William* kept the Lands of *King Edward* in his hands or own use, as *Edward* had done before him, which is as true as the other; for **Roger Earl** of **Shrewsbury**, as *Earl* and *Governor* of *Shropshire*, had many Houses in *Shrewsbury*, and 47 Berwites (Hamlets or Villages) that belonged to the County, besides very many other Lands, a great part of the County which *Rex Edwardus tenebat*, King *Edward* held. **Hugo de Port** had many Lands which were **King Edwards** in *Hantscire*, and many others through the whole Book of *Domesday*, to which again I appeal.

P. 23.

Can any man forfeit his Lands to a Stranger, a Conqueror that could not pretend Title but by Violence and Conquest.

☞ No such Title in *Domesday* Book as *Terræ Regis Edwardi.* Vide *Domesday Scyropshire terræ Comitis. Hantscire Terra Hugon de Port in Fordringbridge Hundr. Domesday*, fol. 44. b.

But if all this were true, how doth it prove *William* **No Conqueror**, or his Assertion.

But his huge Argument is the **Famose Legend**, and Trite *Fable* of **Edwin of Sharnborn**, told, says *Camden*, by all such as would have *William* to have possessed *England* by *Pact* and *Bargain* with the People, and not by *Right* of *War*, or the *Sword*. The Story as he hath it here, and as Sir *Edward Coke* often, Sir *John Davis*, and others have it, is thus. **Edwin of Sharnborn**, who had lost his Estate at *Sharnborn* by the Conquest, and being given to **William de Warrenna**, came before the **Conqueror** and Pleaded, that he never was against the *King*, either before, or after he came in, and by the *Kings* order had his Estate again; Sir *William Dugdale* in the first Tome of his *Baronage*, hath this Story otherwise, and says, That notwithstanding the Kings Mandate, all he could get was to become Tenant to *Warren*, and *William de Albins* of part of his own Land, under certain Services, and he is there called *Edwin the Dane*, and

Britain, fol. 350. The *Legend* of *Edwin* of *Sharnburn.*

Fol. 18. col. 1. out of the Book of the Family of *Sharnborn.*

and this (if any) is most likely to be true, being taken out of the Book sometime belonging to the Family of the *Sharnborns*. Here we see he applied himself to *William*, but got not the Propriety of his Estate; what he obtained was but to hold it from others; and this was then a common practice, as *Bracton* and *Fleta*, two of our most ancient Lawyers, and one of them at least a Judge, do inform us. That at the time of the Conquest, there were *Freemen*, that held their Possessions *Freely*, by *Free Services* and *Free Customs*; and when they were thrown out of them, afterwards returning to them, received their own, and the very same Tenements or Possessions, to hold in Villanage by performing Servile works, but such as were certain and nominated; to this may be added, what *Mat. Paris* says, that King *William* gave liberally to such as were with him in the **Battel** of **Hastings**, when he Conquered *England*; and that little which was left, he put under the Yoak of perpetual Servitude: yet further, as to this particular Report of **Sharnborn**, there could be no such thing, for his name is not to be found as any Proprietor in *Norfolk*, or in *Sharnborn* in *Domesday Book*, or the Conquerors Survey, and the Owners of *Sharnborn*, which are there only to be found, are *William de Warrenna* (from whom this Story says it was restored to *Edwin*) *Odo* Bishop of *Bajeux Bernerius Arbaliſtarius* and *William de Pertenai*; whence it is evident, that *Warren* and others were possessed of these Lands in the 20th of the Conqueror, not long before he died, and no *Edwin* to be found as Proprietor of any of them, or other Lands; nor is the name of **William de Albini**, or **William Pincerna** to be found as a Proprietor in *Norfolk*, or in *Domesday*, though this **MS.** of the Family of **Sharnborn** says he had that Village and several **Towns** thereabouts given him by the **Conqueror**; by which it appears, that this Report is groundless.

Bracton, lib. 1. c. 11. n. 1. *Fleta*, lib. 1. c. 8. n. 2. How the *Saxons* held their Lands both before and after the Conquest. fol. 6. n. 10.

This Survey was begun in the 14th, and finished in the 20th of his Reign. Vid. *Terr. Willielmi de Warren & Episcopi Baiocens. in Norff.* *Edwin* no Proprietor in *Norff.*

P. 26. Our Author says this is cited almost as the only Case and Act of favor the Conqueror did; and adds, that for men to think so is a great mistake, and that he could give many Instances of the like Nature out of **Domesday Book**. But if he finds this there, or any one **Plea**, or **Grant** of the like nature, instead of many he speaks of, I will allow him to be a man of a very sagacious Invention; **Pleas** there are many between Man and Man, and between the *King* and others, **but none like this.** I shall give an example or two to illustrate them.

The way and manner of the Pleas in *Domesday Book.*

Clamores in Northtreding in Eurvicscire In Limberge clamat Ivo Talleboſc ſuper Regem vi. Bovat. Terre Dicunt homines Comitatus quod ipſe debet habere terram & Rex Socam. That is, in Limberge Ivo Talleboſc Claymes upon the King vi. Bovates or Oxeganges of Land; the men of the County (**the Jury**) say that he ought to have the Land, and the King the Soke or Jurisdiction upon it. *Clamores in Weſt-treding ſuper Drogonem clamat Norman de Adreci iij Bovat. Terre in Normanby, dicit Wapentachium quod ipſius debet eſſe terra, & Drogonis Soca.* That is, Norman de Adreci claims upon Drogo iii. Oxeganges of Land in Normanbe, the Wapentach says that Land ought to be his, and the Soke Drogo's. And many the like; all which Judgments and Controversies were amongst the **Normans**, as may be easily perceived by their Names, and the Judgment of the Court,

Court, Hundred, or Wapentach most commonly was grounded upon the Sight of King Williams Seal, his Writ or his Commissions; by which, or some of them, it appeared to be so, as I could make it out, if it were proper to do it in this place.

The 3d Argument he useth upon this Head, is the Assertion of a great Lawyer and Judge in *Edward the Third*'s time, admitted and agreed as a Rule of Law and truth by the Judges, and transmitted to Posterity, being spoken in an Objection made in a *Quo Warranto* against the Abbat of *Peterborough*. *Le Conqueror*, (saith the Judge) *ne vient pas pur Ouster eux qui avoient Droiturel possession, mes de Ouster eux queux de lour tort avoient occupie ascun terre en Disheritance del Roye & son corone.* That is, the Conqueror came not at all to out those which had right Possession, but to out those which by their wrong doing had occupied any Land in Disheritance of the King and his Crown. I shall not inquire whether this be admitted as a Rule of Law, or whether the Judge that said this, believed it himself: Sure I am, that if this Gentleman be so well acquainted with Domesday Book, as he pretends to be, he cannot believe it, nor any one that ever perused it but one half an hour.

P. 26. Judge *Shardelowe*. A Rule of Law and truth averred by our Author.

Were the 793 *Mannors* Robert Earl of Mozeton in *Normandy*, and *Cornwal* in *England* had given to him by King William, only Lands that had been kept from the Crown? Were Alan Earl of Britain, and Richmonds 442 Mannors given him by the *Conqueror*, Lands with-held from the Crown? Were Geofry Bishop of *Constance* his Lands 280 Mannors, Lands of the like nature? Were all the Normans great Estates in every County such Lands as those? In Domesday the names of the great Proprietors are entred in every County before the particular description of their Lands, and mention of their under Tenants: What became of all the Lands of the Saxon Nobility, their Great Earls, Thanes, Middle-Thanes, &c. Were they not given to the Normans? Did they not all take their Title from King William and the *Sword*?

Large Estates given to the *Normans* by the Conqueror. It appears by Enumerating the several Towns and Mannors they possessed in several Counties. *Domesday* in several Counties. And they were no Crown-Lands.

Had the Saxons all of them invaded the Crown-Lands, and made up their Estates out of them? Were the Whole County of Chester, given by the Conqueror to Hugh de Abrincis his Kinsman, and a Norman, Crown-Lands? Were the greatest part of Shropshire given to Roger de Monte Gomerico a Norman, Crown-Lands? Whoever reflects upon these things, must acknowledge this *Judge* to have been very ignorant in the *History* of this *Nation*, or that he spoke the words out of *Design*, and that which way soever it happened, his Assertion was not a fit Foundation to build a Rule of Law upon. And 'tis a great Argument he *studied*, and *knew* only *Popular*, and *Lucrative Law*, and not the *Constitutions* of the Nation before his own time. What remains in this Discourse about the *Conqueror*, That he claimed not by the Sword, but was elected, *&c.* which he would fain prove out of the Fragments of some Authors that lived at some distance of time from his coming hither, I shall prove from undeniable Reason and Authority, that he Governed the Nation as a *Conqueror*, and did so *live*, and did so *take*, and *repute* himself to be.

Had *Sharnborn*'s Plea been good, doubtless there were many in these parts and Possessors of these Estates, that might have said they never opposed Duke *William* either *Consilio vel auxilio*.

William first Governed as a Conqueror, and did so take and repute himself to be.

The chief Justice and other Officers of the Law all *Normans.*

This appears first by his bringing in a *New Law*, and imposing it upon the People, and 'tis clear he did so: The *Justiciaries* or *Chief Justices*, the *Chancellors*, the *Lawyers*, the *Ministerial Officers*, and *Under Judges*, *Earls*, *Sheriffs*, *Bailiffs*, *Hundredaries*, were all *Normans*, from his first coming until above 100 years after, as I can make it out, by particular Instances, and undeniable Reason, were not the Catalogues too long to be here inserted. If therefore the *Justiciaries*, *Chancellors*, *Earls*, *Sheriffs*, *Lords* of *Mannors*, such as heard Causes, and gave Judgment were **Normans**, if the **Lawyers**, and **Pleaders** were also **Normans**, the **Pleadings** and **Judgments** in their several **Courts** must of necessity have been in that **Language**, and the **Law**, also the **Norman Law**, otherwise they had said and done they knew not what, and Judged they knew not how; especially when the Controversies were determined by **Military Men**, **Earls**, **Sheriffs**, **Lords** of **Mannors**, &c. that understood not the *English* Tongue, or Law; or when the chief **Justiciary** himself was a **Military Man**, as it often happened, and understood only the **Norman Language**, and 'tis hardly to be believed these men would give themselves the trouble of learning and understanding the *English Law* and *Language*; yet perhaps some men may think they came by the knowledge of the *English Law* Sir *Edward Coke*'s way, by *Revelation*, who galled with an Argument (that he could not answer) that our *English Laws* were the *Norman Laws*, tells us the *English Laws* cannot be said to be written in the *Norman* Tongue, for the *Laws* of *England* are (**Leges non scripte**) Laws not written, but divinely cast into the hearts of Man.

A B C

It was so until it was alter'd by Stat. 36 *Ed.* 3. c. 15. and this is the true Reason why all our old Laws and Pleadings were in *Norman French.*

Reading de finibus, p. 3.

Ibid. Our ancient *English* Laws came from *Normandy*. *Spelm. Gloss.* fol. 218. Our ancient Tenures were from *Normandy*. See *Grand Custom* throughout *Scriptor. Norman.* fol. 1037. *Cum Willielmus hanc terram primo devicit non solum in possessiones victorum, sed in Matrenas & virgines insanire cepit. Ead.* Hist. Nov. fol. 57. n. 40. * *Leicester's Cheshire*, and * Transcript. of *Domesday*, there fol. 431. *William* I. gave most of the Estates of the *English* to his *Normans*, &c. **Append.* n. 10.

Secondly, Though we have many *Laws* and *Customs* from the *Northern* People, and North parts of *Germany*, from whence both **Saxons** and **Normans** came: yet after the *Conquest*, the Bulk and Maine of our Laws were brought hither from *Normandy*, by the **Conqueror**. For from whence we received our **Tenures**, and the Manner of holding our Estates in every respect, from thence also we received the **Customs** incident to those *Estates*. And likewise the quality of them, being most of them *Feudal*, and enjoyed under several **Military Conditions**, and **Services**, and of necessary consequence from thence, we must receive the *Laws* also by which these **Tenures**, and the **Customs** incident to them were regulated, and by which every mans right in such Estates was secur'd according to the nature of them. But from *Normandy* (and brought in by the *Conqueror*) we received most, if not all our ancient *Tenures*, and manner of holding and enjoying our *Lands* and *Estates*, as will appear by comparing our *Ancient Tenures* with theirs.

D E

And further, he took away from the *English* their Estates, and gave them to his *Normans*; and this he did from his first coming in; *Fitz-Osborn* was made Earl of *Arundel* and *Hereford* at his first coming in, and was Lord of *Brettevil* in *Normandy*, and established the *Laws* of that *Town* at * *Hereford*. **Alan Earl** of **Britain**, had all *Earl Edwins Lands* given to him at the Siege of *York* three years after his arrival; and he had distributed most of the Lands of the Nation to his **Normans**, long before the **Survey** was begun, and by that infallible Record it is clear, * that he gave near all the Lands of the Nation to his Followers, and very little or none to the *English*,

F

English, who held what they had by a new Title, and new Services from the Conqueror, or his great Lords, or became Tenants to, or Drudges upon their own Lands, as we heard before from *Bracton* and *Fleta*. Here is enough to satisfie any unbyassed Person, that the *Conqueror* did not lay by his Sword after the *Battle* of *Hastings*. Yet, for further satisfaction; I shall confront his Authority, with the Testimonies of such Authors as lived in the time, and could not but know how he Governed, and what he did.

Eadmer a Monk of *Canterbury* at the time of the Conquest, a great *Companion* to *Arch-Bishop Lanfranc*, and was with him when the News came of the *Conquerors* death, writes, That *William* designing to establish in *England* those Usages, and Laws, which his Ancestors and he observed in *Normandy*, made such Persons *Bishops*, *Abbats*, and other *Principal men*, through the whole Nation, who could not be thought so unworthy, as to be guilty of any reluctancy, and Disobedience to them; knowing by whom, and to what they were raised; all Divine and Humane things he ordered at his pleasure. And after the Historian hath recounted in what things he disallowed the Authority of the *Pope*, and *Arch-Bishop*, he concludes thus. But what he did in Secular matters I forbear to write, because it is not to my purpose, and because also any one may, from what hath been delivered, guess what he did in Secular.

Hist. Nov. fol. 6. n. 10, 20. 30.

Eadmer's Testimony how *William* the I. Governed.

The next is the Testimony of **Ingulph Abbat of Croyland**, an *English* Man, born of *English* Parents, **Secretary** to *William when Duke* of *Normandy*, and **made Abbat** by him; he informs us, that by hard usage he made the *English* to submit; that he gave the *Earldoms*, *Baronies*, *Bishopricks*, and *Prelacies* of the whole *Nation* to his *Normans, and scarce permitted any Englishman to enjoy any Place of Honor, Dominion, and Power.*

Hist. Croyl. f. 512. a. n. 50. b. l. 1.

Ingulph Abbat of *Croyland* his Testimony in the same matter.

But more express and full to this purpose is the account we have in *Gervase* of *Tilbury* (a considerable *Officer* in the *Exchequer* in the time of *Henry* II. and who received all he knew there from *Henry* of *Blois* the great *Bishop* of *Winchester* and *Grand-child* to the *Conqueror*) of his dealing with the *Natives* which he thus delivers: After the Conquest of the Kingdom, and just Subversion of Rebels, when the King himself, and his great Men had viewed and surveyed their new Acquests, there was a strict enquiry made, who there were which fighting against the King, had saved themselves by flight, from these and the Heirs of such as were slain in fight, all hopes of possessing either *Lands* or *Rents* were cut off; for they esteemed it a great favour to have the benefit of their Lives; but such as were called and urged to fight against *King William*, and did not, if in process of time they could obtain the favour of their *Lords* and *Masters* by an humble obedience and obsequiousness, they might possess somewhat in their own Persons, without hope of Succession, their Children only enjoying it afterward at the will of their *Lords*, to whom when they became odious, they were every where forced from their Possessions; nor would any restore what they had taken away: when a common miserable complaint of the Natives came to the *King*, that they thus exposed, and spoiled of all things, should be compelled to pass into other Countries. At length, after a

Gervase of *Tilbury*, or the *Black Book* in the Exchequer more full and express in the same case then both the former. Lib. 1. C. de Murdro. de necessar. observ.

Note this.

consultation upon these things, it was decreed, that what they could by their deserts, and lawful Bargain obtain from their *Lords*, they should hold by inviolable Right, but should not claim any thing from the time the Nation was Conquered, under the Title of Succession or Descent: Upon what great Consideration this was done, it is manifest, says **Gervase**, when as they were obliged upon a studied compliance, and obedience, to purchase their Lords favour; so therefore, whoever of the Conquered Nation possessed Lands or such like, obtained them not as seeming to be their Right by Succession, or Inheritance, but as a Reward for their Merits, or by some intervening Agreement. A

Ibid.

And this.

Ibid.

How and after what manner the *English* possessed Lands after this Conquest.

And now let me ask this Gentleman, Was it not **William Duke** of **Normandy** did these things? Did he not think, forecast, and contrive how to do them? Was he asleep when they were done? Were they not done by the advice of his great *Officers*, and *Counsellors*, his Great *Lords*, and *Barons*? Can it be reasonably imagined that he and they should give way to, or establish such Laws as would undo, and destroy their own Settlement? Or can it be thought he never intended to gratifie the Adventurers with him in this Expedition, the **French, Flemmings, Anjobins, Britains, Poictobins**, and People of other Nations, who made up a great part of his Army, and came with him under great and considerable Men their Leaders? Or that they should expect nothing? Can any man affirm they came out of *stark love*, and *kindness*, *without any consideration* of *sharing* with, and under him in the *Conquest*? Whosoever answers these Quæries justly, and truly, must acknowledge that *William* did claim no otherwise than by the Sword, and made an actual Conquest. B C

And this.

Adventurers with Conquerors expect Shares in the Conquest.

William the I. claimed by the Sword, and made an absolute Conquest.

The pretence that he claimed from *Edward Jure Hæreditario*, is idle, unless it were *Jure Hæreditario*, *Testamentario*; for neither was he Heir to *Edward*, or *Edward* Heir to the Crown by Descent. Notwithstanding the Gift, or Grant of the Crown from *Edward*, yet he thought the Sword was his best Title, and the other meer pretences to catch the People. The things that facilitated his Conquest, were the *Factions* among the *Saxon*, and *Danish Nobility*, and People; the *Popes* encouragement, and siding with **William**, and the inclinableness of the Clergy to his Cause; who were the Men that then had the great power over, and influence upon the People. D E

Ingulp. fol. 512. b. n. 40.

Williams best Title from the Sword.

What made *Williams* Conquest of *England* easie to him.

But still our Author urgeth that King *William* granted that *Edward* the *Confessors Laws* should be observed, and pitcheth upon those put out by *Selden*, who took them from the Copy preserved in *Croyland Abby*, which only he judgeth Authentick: The other put out by *Lambard*, and Printed in *Ro. Hoveden* he rejects: What these *Laws* were let us hear **Ingulph** himself. *I brought with me* (says he) *from* London *the Laws of the most illustrious* King Edward, *which my* Lord King William would have to be Authentick, *and* Perpetual *through all* England, *and to be observed inviolably under grievous punishments, which were published, or proclaimed in the same Language they were written, lest by our ignorance we might incur the great danger, and most rigid Censures and Penalties of them.* 'Tis clear from the very words of *Ingulph*, that these were only the F

Not. ad eadem. fol. 173.

Ibid. fol 172. 189.

Hist. *Croyland* in fine.

King *Edward's* Laws.

Penal

Pœnal Laws of King *Edward*, and indeed the Laws themselves, in number 50 only, Printed in the old *Norman* Idiome are all Pœnal Laws, and such as concerned *Criminals* (nothing to our Authors purpose) except three or four about Reliefs, and one about Distresses of small moment, and these are all *Selden* (says **Ingulphs Copy**) affords, but that there were many others he likewise says in *Old Rolls* and *Parchments*, of which he had the best Copy, and hath tacked it to the rear of these, and proceeds in order with the 51 *Title and Law*, and so *forward*.

Were mostly Pœnal Laws.

A

And amongst these he finds a Branch of the *Conquerors Magna Charta*, which he thinks does him great Service. The words are these, **Volumus** *etiam ac firmiter præcipimus & concedimus* **ut omnes liberi homines totius Monarchie regni nostri prædicti** *habeant & teneant terras suas, & possessiones suas, bene & in pace liberè ab omni* **exactione** B **injusta & ab omni Tallagio** *ita quod nihil ab eis exigatur, vel capiatur, nisi* **servitium suum liberum, quod de jure nobis facere debent & facere tenentur**, *& prout statutum est eis, & illis a nobis datum & concessum* **jure hereditario**, *in perpetuum per* **commune concilium** *totius Regni nostri predicti.* That is, We will, and firmly *command*, and grant, that all **Free-men** of the whole *Monarchy* of our *Kingdom*, may have and hold their Lands and Possessions well and in Peace *free from all unjust* **Exactions** and **Tallage**, so as nothing be C exacted or taken *unless their free* **Services**, which of right they ought and are bound to perform to us, and as it was appointed to them, and given and granted to them by us as a *perpetual right of inheritance*, by the *Common Council* of the *whole Kingdom*.

P. 32, 33. The Conquerors *Magna Charta* examined.

This *Common-Council* will not help him, for without doubt here was no **English men** in it; certainly they would not grant away their own Lands to Strangers. These were the **Saxon Lands** D which **William** had given in **Fee** to his Soldiers to hold them under such **Services** as he had appointed them, and that by *right* of **Succession** or **Inheritance**, which right was not very frequent amongst **Feudataries**, or **Military Tenents**, in those days: but mostly they *held* their *Lands* at the **Pleasure** of the *Lord* or *Patron*. And this he did to endear his Followers to him, and this was **no Magna Charta** made to **English** Men, as this Gentleman and most others mistake it to be; and here also upon the same Account he granted E their Lands should be free from all **unjust exactions** and **Tallage**, that is, from all **extraordinary hard Impositions** and **Taxes**; for so **Tallagium** signifies, not their ordinary **Scutagia** and **Auxilia**, Scutage or Aids; and good reason for this, when they served on Horseback themselves, and found King *William* so many Knights or Horsemen as he had appointed them, at their own Charge, whenever he commanded them.

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And these **liberi homines** Free-men, here mentioned, were such as *held* in **Military Service**, though our common Interpreters make them the same with our Free-men at this day; which is a gross mistake: for these Free-men in this Law, can be no other than such as are mentioned in the 58th Law here following, and they were such as held in Military Tenure, though not Knighted, for such as were, are called *Milites*, and the other *liberi homines*, and same-

See *Liber* or *Liberi homines* in Glossar.

Freemen in the Confessors Laws amended by *William*, who they were.

Law 58 explained. Are there any *English* Earls, Barons, or Knights in *Domesday* that had Estates. If there be, lets know their names and number, they are soon told, and then it may be seen what proportion they bear to the *Normans*.

The Services of those Freemen.

☞. See *Liber homo* in Glossar.

sometimes they are taken promiscuously one for another. The Law runs thus, *Statuimus etiam & precipimus firmiter ut* **omnes Comites Barones & Milites**, & **Servientes**, & **Universi liberi homines totius Regni nostri**, &c. The whole Law is thus aptly rendred in *English*, We ordain also, and firmly command, that all *Earls*, *Barons*, *Knights*, and *their Servants*, or *Escuyers*, and all *Freemen* of our whole *Kingdom* (the same words as in the 55th Law) be always *fitted* with **Horse**, and **Arms** as **they ought to be**, and always ready to perform their **whole Service** to us, when there shall be need, *which* they **ought** to *do*, **according to**, **and by reason** of **their Fees** and **Tenures**. *As we ordained by the Common-Council of our whole Kingdom. We gave and granted to* them in **Hereditary Fee** (the very same words again) and this Command is not to be violated any way without full Forfeiture, that is, of all their Lands and Goods.

A

B

Here all the Freemen of his Kingdom were to perform their Military Services, with Horse and Arms, according to their Fees and Tenures. Therefore they were *Tenents in Military Service*, (which in those times *were the only great Free-men*, and that *Service the only free Service*) which were meant in this *Law*. And how different they were from our ordinary Free-holders at this day (for whom neither of these Laws were made) I leave to the Judgment of every ingenuous Reader.

C

Glanvil lib. 2. c. 11. lib. 9. c. 7. *Grand Cust.* c. 111. fol. 135. b. K. *John's Magna Charta, Paris*, fol. 257. n. 40. Law 59th of the Conqueror explained.

These were the Men, the only **legal men** that named, and chose *Juries*, and served on *Juries* themselves, both in the *County* and *Hundred Courts*, and dispatched all Country business under the great Officers, as will appear by the next Law with a little explication. *Satuimus etiam & firmiter præcipimus* (saith the 59th Law) *ut omnes liberi homines totius regni, sint fratres conjurati ad Monarchiam nostram & ad regnum nostrum pro viribus suis facultatibus contra inimicos pro posse suo defendendum & viriliter servandum, pacem & dignitatem coronæ nostræ integram observandam, & ad* **judicium rectum & Justiciam constanter omnibus modis**, *pro posse suo, sine dolo, & sine dilatione faciendum.* Which is thus to be turned, We ordain and firmly command that all **Free-men** of the *whole Kingdom* be *Sworn Brothers*, manfully to preserve and defend our Monarchy, or Government, and our Kingdom with all their Power, Force, and Might, and keep entire the Dignity and Peace of our Crown, and to give right Judgment, and to do Justice by all ways and means according to their power and ability, without fraud or delay.

D

E

See *Liber homo in Glossar.* * K. *John's Magna Chart. Paris*, fol. 257. n. 40. This Law came from *Normandy*, and in the Grand-customer we have an Assise described to be an Assembly of Knights and Sage-men with the Baily &c. c. 24.

The judgment they were to give, and the justice they were to do by this Law (besides that in their own Courts and Jurisdictions) was principally as they were Jurors or Recognitors upon * Assizes, *&c.* (though some of the greatest of their *Milites* were often Sheriffs, Hundredaries, and other under Judges, and ministerial Officers of Justice in the several Counties.) As may be seen in *Glanvil*, every where, but especially, *lib. 2. c. 10. 11. lib. 9 c. 7. c. 13. & lib. 13.* throughout. This of being Suitors to the County and Hundred Courts, *&c.* was a Service incident to their Tenures: Before them, many times anciently in the County, and Hundred Courts, and not privately in a Chamber, were executed *Deeds*, *Grants*,

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Grants, and *Donations* of Lands contained in very small pieces of Parchment, Witnessed by *Thomas* of such a Town, *John* of another, *Richard* of a third, *&c.* which *were* **Knights**, *&* **libere** *Tenentes in Military Service* in those Towns of considerable Estates, and *not the Lower sort of the People:* And this execution of Sales, and Assurances in open Court, was as publick, and notorious, and as secure, as if at that time, there had been a *publick Register* for them. A

Bracton l. 2. c. 16. n. 12.

In process of time the *numbers* of these *Free-holders* increased, the great Fees being divided into small ones, by *Co-heirship*, or by *Sale*, and otherwise parcelled out, by the Kings Licence, into *Half-Fees*, *third parts of Fees*, *fourth parts of Fees*, *eight parts*, *sixteen*, *twenty*, *thirty*, and *forty parts of Fees*; which twenty, thirty, and forty parts of a Knights Fee, if we allow Land to be of five times the value, it was 266 years since the Statutes were made, that Jurors should have 20 *s.* and afterwards 40 *s. per annum*, besides all Charges, that sum will amount to, for a twentieth part 10 *l.* for a thirtieth part 20 Nobles, and for a fortieth part 5 *l.* but if we allow Land to be seven, or eight times the value now, it was then, (as I think we may) then each of those Sums will amount to half as much more, that is to 15, 10, and 7 *l.* 10 *s.* A Knights Fee by general Computation, before that Tenure was destroyed by Act of Parliament, being valued at 200 *l. per annum*, and in the times near the Conquest until after King *John*, 20 *l. per annum*, was the value of a *Knights Fee*, and in the middle times after the Conquest 40 *l. per annum* was the value of the same, as is evident by the Writs of our Kings of those times to distrein men of 20 *l.* and 40 *l. per annum*, to receive the Order of *Knight-hood*. B C

Knights Fees divided. See *Glossar. liber homo.*
The 20th part of a Knights Fee.
The parts of a Knights Fee.
2 *Hen.* 5. c. 3.
35 *Hen.* 8. c. 6. where it is expounded.

Knights Fee, see Glossar.
The ancient value of a Knights Fee.
Dors. claus. 6. *Ed.* 2. m. 27. ib. 9. *E.* 2. m. 13.

And as the number of them increased, so they were all obliged to the same *Service* and *Suit* of Court, as well those that had a greater, or lesser share of the Fee, for though it might be here as it was in *Normandy*, that no part of a *Fee* above an *Eight*, was esteemed a *Member* of a *Fee*, and reteined *Jurisdiction*, *Court*, and *Usage*, (as it is there said) yet the Suit to the County and Hundred Courts remained. For though very many Lands which were aliened by *Charter* from the *Fee*, were, and all might have been discharged, from all *Military* and other *Service free* and *base*, where there was enough left, to perform the *Service* of the Fee, yet *Suit* to the *County* and *Hundred* Courts could not. See more to this purpose in the *Glossary*, and the words *Feudal Law*, *Knights Fees*, *liberi homines*. D E

Grand Cust. c. 33. what was a Member of a Knights Fee.

These with the *Military* Tenents, from whom they derived their Titles, in all probability were the Men, that at first *Elected* two *Knights* in every *County*, out of the *Tenents* in *Capite*, and only they as Suitors to the *County Court* were *Electors*, when at first the Body of them began to be this way represented; and this very likely was the reason of the Statute made afterwards, 7 *Hen.* 4. *c.* 15. *Ann. Dom.* 1406. that the Election should be made in the County Court by the Suitors, *&c.* and likewise might be the reason why the Statute of the 8th of *Hen.* 6. *c.* 7. by which any Man that had 40 *s. per annum* of any Tenure, was permitted to be an Elector, was altered, F

Military Tenents Suitors to the County and Hundred Courts.

altered, and so explained that none but Free-holders of 40 *s. per annum* should afterward be Electors by 10 *Hen.* 6. *c.* 2. *An. Dom.* 1432. with respect perhaps to the least part of Knights Fees, *viz.* 40 *s. per annum*, which were come into the hands of very ordinary men; for anciently soon after or near the Conquest, there were very few or no *great Soccagers*, that is, such as held great Estates in *Soccage*; and neither the small ones, nor the *Nativi*, or Copy-holders, were reputed *liberi*, or *legales homines* (as before mentioned) or performed the Service proper to such Military Tenents, or those to whom they had alienated part of their Fees.

LL. *Hen.* 1. c. 29.

Most of the ancient Law was the Feudal Law. Vid. Glossar. Feudal Law.

The truth is, the greatest part of the ancient Law under our ancient Kings after the Conquest was the Feudal Law, brought hither by the *Normans*, under whom it was more rigidly exacted and observed than in the *Saxon* times, and that by, and upon only the *Normans* themselves. For the **English** had neither Estates nor Fortunes left, and therefore it could be no great matter to them, by what **Law, Right**, or **Propriety**, other men held their Estates. This Law, and the great Pœnal Laws and Customs then in use were brought out of *Germany* by both these People, they being Neighbours there; and if there were any usages came along with them, which seem to have no dependance upon that Law, yet without great trouble most of them are reducible to it. I have been thus long in expounding the **Magna Charta** of **William** the **Conqueror**, as this Gentleman calls it, that I might discover the *Mistakes* of the *Common Interpreters* about the meaning of it.

P. 32, 33, 34, 35.

I confess this discourse doth not directly reach the Controversie between us, but I follow our Author, as I promised in the entrance upon it, and he hath led me to it, by insisting much upon the ordinary, common, and *mistaken Notions* of the *Conquerors Title, Laws* and *Government*, devised on purpose to decry, baffle, and conceal the nature, and use of the Feudal Law here, and encourage the People to tumult against it, by the Monks and Clergy-men-Lawyers, who wrote a Century two or three after the Conquest, that they might the more easily introduce instead of, or mix with it, the *Canon Law*; yet most what the *Clergy* and *Laity* then desired, or had granted them, was only the relaxation of the rigid Feudal Tenures, as is evident by the Charters of *Henry* I. and King *John*, both in *Mat. Paris*, which contain little else.

Fol. 55. n. 40. & 255. n. 50.

P. 39, 40.

All our Author collects from this discourse upon the **Conqueror**, is, that there were *Common Councils* in his time, whereby it appears that the *Free-men* or *Commons* of *England* were there, and had a share in making *Laws*; *For what* (says he) *could the promised restitution of the* Laws *of* Edward *the* Confessor *signifie, if their* Witena-Gemote *and* Parliaments *were destroyed and broken?* This needs no other Answer, than that it doth not appear by the *Confessors* Laws, (if we know what they were) that the Commons were part of the **Saxons Witena-Gemote**, but on the contrary it hath been here proved, and will further appear, that as the **Saxon Great Men**, were only present, in their great Councils, so the **Norman Barons**, and their great Men, were only present in those of the **Conqueror**.

There

There were several great Councils in *William* the I. his Reign, but who, and of what Persons they consisted, is not so clear, they were chiefly about Ecclesiastick matters, and in most of them we have many *Bishops* names, and no others, not so much as the *Principes*, *Primates*, or *Magnates* in general, unless in that Council, *An. Dom.* 1071. mentioned in *Radulph de Diceto*, wherein 'tis said the plaint of *Wulstan*, *Bishop* of *Worcester was ended, in Concilio celebrato* A *in loco qui vocatur Pedreda*, **cozam** *Rege & Doroberniæ Archiepiscopo, & Primatibus totius Regni.* The great confluence of People at his *Coronation*, is to be looked upon rather as a *confused congress*, than a *regular great Council*; and what was done there by the *English*, cannot truly be said to be their act (many of the Bishops excepted) who dare do no otherwise, being over-aw'd by his whole Army there present, and must in all things submit to his pleasure; for when *London*, and the Countries about it, had *submitted*, *given* B *Hostages*, and *sworn Fealty* to him, he nevertheless *permitted* his Army to *burn Towns*, and *commit Rapine.* The *Meeting* at *Pinenden-Heath* in *Kent* was a *Shire-mote* or *County Court* rather than *great Council*, appointed by Special Commission, for the determining the Controversie between **Arch-Bishop** *Lanfranc*, and *Odo Earl* of *Kent*, concerning *Lands* and *Customs* he with-held from the *Church* of *Canterbury*, where the *King* by Writ convened the **Chief** and **Legal** Men, not only out of *Kent*, but out of other Counties of *England*, C as *Arbiters* and *Judges.* And good reason, seeing the *Kentish* Men were like to be too much biassed on one side or other, in respect of the Dependency on, or relation to one of them; and here the Judgment was for *Lanfranc*, having so great reason on his side, that *ex communi* **omnium** *astipulatione, & judicio ibi cuncta recuperavit*, by the common *astipulation* and *Judgment* of *all the Judges* or *Jurors*, or of all present. Not **astipalatione totius regni** (as our Author cites *Eadmer*) he there recovered all things. D

The last Authority he brings in this Kings Reign is from the Year-Books, where in a Case concerning the exemption of the **Abby** of **Bury** from the Visitation of the Bishop of *Norwich* it is said, *In temps W. Conqueror a son Parliament*; here because the **word Parliament** is mentioned, which came not into use instead of **Colloquium magnum**, or **Commune Concilium**, &c. until about the middle of the Reign of *Henry* III. and became of more frequent E use after the 49th of *Henry* III. when the other words were very little, or not at all used. He would have the **Commons** to be a part of that great Council, as they were of the *Parliaments* in the time of *Edward* III. and conceals what follows; that what was ordained in that *Parliament* (as they then called a *great Council*) was **per le Roy & per le Archevesqz de Canterbury & per tous les autres Evesques de la terre Countes & Barons**, By the King, the *Archbishop* of *Canterbury*, and all the *other Bishops* of the *Land*, *Earls* F and *Barons.* From this passage we may observe that **William** the First was then reputed a **Conqueroz of this Nation**, and that the **Judges** of that time thought him so, and that the **Members** of that **Parliament** (if he will have it so) were the **King, Archbishop, Bishops, Earls**, and **Barons** *only*, the **Commons** being not mentioned.

Col. 483. n. 30.

P. 29, 30, &c.

Hoved. f. 258. a. l. 9.

Ibid. l. 7.

The meeting at *Pinenden-Heath* no great Council.

P. 45.

The Case between Archbishop *Lanfranc*, and *Odo* Earl of *Kent*. Eadem Hist. nov. fol. 9. n. 40.

How judged P. 46.

21 *Ed.* 3. fol. 60.

P. 48.

Ib. 21 *E.* 3. f. 60.

Great Councils in the Conquerors time consisted of the King, Bishops, Earls, and Barons.

William the *Second.*

BUt to proceed, the *Conſtituent parts* of the *great Councils* in the *Conquerors* time will better be known by what they were in the Reigns of the next ſucceeding Kings, for they were certainly the ſame: yet before we come at them, we muſt ſtep out of the way if we will cloſely follow this Gentleman. He tells a piece of a Story how *William Rufus came* to be *King*, and at laſt concludes that he was elected, and here and there tells us that many of our *Kings* (ſuch only as were manifeſt Uſurpers) ſince the *Conqueſt* were Elected. But he may as well ſay **Oliver Cromwell** was elected **Protector**, or any other **Traitor** or **Uſurper.** *Rufus* his Pretence to the Crown, was his Fathers Will, by which he gave *Normandy* to his eldeſt Son *Robert*, *England* to his ſecond Son *William Rufus*, or a Sum of Money, or his Mothers *Poſſeſſions* in *England* to his *Third* and youngeſt Son *Henry*.

William Rufus was not Elected.

Florent. Wigorn. fol. 642. who was at this time a Monk in *Worceſter* and *Malmesb.* fol. 63. b. l. 6.

No ſooner was the *Conqueror* dead, but his *Son William* (not ſtaying to pay the laſt dues to his deceaſed Father) haſted into *England* with *Robert Bloet* one of his Fathers Chaplains (afterwards *Rufus*'s *Chancellor*, and * *Biſhop* of *Lincolne*) who brought to *Lanfranc*, *Archbiſhop* of *Canterbury*, the Donation of his Father, which he having read, and taking from him all imaginable ſecurity by Promiſes and Oath that he would be very kind to the Clergy, made haſte with him to *London*, and by his Intereſt in them (who then imagined the Affairs of the Nation) and ſuch other Great Men as he could influence, on *Michaelmas* day (the *Conqueror* dying *September* 9.) with their conſent Anointed him King in the old Church of St. *Peter* in *Weſtminſter*, and returning to *Wincheſter* (where was then the Treaſury in the Caſtle there) he diſtributed his Fathers Treaſure as he had commanded him, and ſent it to the *Churches* and **Monaſteries** through *England*.

Order Vital. fol. 763. D. An *Engliſhman* and a Monk at this time in *Uticum* in *Normandy*. * Godw. de præſul. Angl. How *Rufus* came to be King.

Orderic. Vital. fol. 663. C. Florent. Wigorn. ut ſupra. Florent. Wig. ibid. An. Dom. 1088.

Florence a *Monk* of *Worceſter* at that time, who died *An. Dom.* 1119. and was no friend to *Rufus*, tells us, that not long after his Coronation there aroſe great diſcord and contention between the chief Men of *England*; for part of the *Great*, and *Noble Normans* favour'd King *William*, but it was the leaſt; and the other part of them favour'd *Robert Duke* of *Normandy*, which was the greateſt.

Fol. 665.

Ordericus Vitalis at this time a *Monk* in the *Monaſtery* of *Uticum* in *Normandy*, gives a more full account of the Tranſactions concerning this matter, to wit, that the chief Men that had and were like to have great Eſtates both in *England* and *Normandy*, met to treat about the conveniencies or inconveniencies of the ſeparation of them one from the other, by the *Rule* and *Dominion* of two diſtant Princes, having both been under the Power, and Government of their defunct Lord, who by their aſſiſtance had Conquered *England*. They were in a great ſtreight what to do, they could not ſerve two Lords ſo remote from one another: *If they faithfully ſerved the Duke of* Normandy, *they ſhould offend his Brother* William, *and loſe their Lands and Honours in* England; and if they proved obedient to him, *Robert* would deprive them of their Paternal Inheritance

Ibid. f. 666. A.

tance in *Normandy*; At last they resolved, seeing *Robert* was the eldest, and that they had *sworn Fealty* to him in his Fathers life time, to set him up and make him King of *England*, for the preservation of the Unity of both Nations. *Odo Bishop* of *Bajeux*, *Eustachius Earl* of *Bolloin*, *Robert de Belesme*, and many others acquainted *Robert* with their intention, to whom, if they would begin, he promised sufficient assistance for the effecting their Design. Therefore after *Christmas* they passed into *England*, fortified their Castles, and in a short time stirred up a great part of the Country against the King, with these joined *Roger Earl* of *Arundel*, and *Shrewsbury*, *Hugh Grentmesnil*, *Vicount* of *Leicester*, and many more very great men in *England*, or at least seemingly continued with *William*, and favoured the *Design* of *Robert*.

Ibid. C. The great *Normans* would have set up *Robert* Duke of *Normandy*.

Ibid. D.

King William observing the posture of his affairs, resolved to suppress these Insurrections, and to that purpose Convened *Lanfranc* the *Archbishop*, *Bishops*, *Earls*, *and Natural English*, and shewed them his intention, who exhorted him to proceed against the Perturbers of the Peace, and promised their ready assistance. And then, as the Monk of *Worcester* again informs us, **Congregato quantum ad præsens poterat Normannorum, sed tamen maxime Anglorum Equestri & pedestri (licet mediocri) exercitu**, &c. having raised such an Army as he could of Horse and Foot of *Normans*, but the greatest part *English* (though but a mean one) and by using the *Common bayte* of *Liberty, declaring he would alleviate the rigid Laws, give free leave of Hunting*, &c. he so encouraged his Men, that he took in *Rochester*, and some other Castles, and brake the force of his Enemies.

These *English* were Stipendiaries, *Mat. Par.* fol. 15. n. 20.

By what means *Will. Rufus* brake the Force of his Enemies.

But he overcame his Enemies not so much by force, as by insinuating himself into **Roger Earl** of **Arundel** and **Shrewsbury**, the chief person next *Odo*, in this Insurrection; to whom he pretended, he would most willingly quit the Government, if he, and those his Father had assigned his **Curators**, should think fit. Yet adding, that he understood not why they were so outrageous against him. If they would have Money, or Augmentation of their Estates, they might have what they would, upon condition they endangered not his Fathers Will and Judgment, which if they despised, they might hazard their own safety; for the same man that made him a King, made them Earls and Great Men, and he ruled by his Army ever after.

Malmesb. de Gest. Reg. fol. 68. a. n. 10. 20.

Roger Earl of *Arundel* and *Shrewsbury* comes off to *William Rufus*.

William Rufus Ruled by his Army.

Here we see *William Rufus*'s Title to the Crown, from his *Fathers Will*, and his own *Sword*, the greatest part of the *Norman* Nobility (which were then the **only Nobility** in **England**) were his Enemies, the *Bishops*, *Hugh Earl* of *Chester*, and *Robert de Roelent*, who was his General, *William de Warrenna*, and some few others his Friends. *Let our Author consider this, and tell me whether* William *the* II. *was Elected, or not*: **Or let him consider, that an Election is, or ought to be, a Free, Solemn, Deliberate, Sober, Sedate Act, of the whole People** (*where they have that Right*) **whereby the major part of them do chose this or that Person, or thing, for such or such Ends and Purposes. And not an Undermining, Crafty, Cheating, or a Tumultuous and**

His Title.

The Great Men that sided with him.

What an Election is.

Forcible Act of a Party, or Faction, for the setting up this or that Person, or using this or that Means for the obtaining their own Designs and Purposes. Let him, I say, consider and make a difference between these two Acts of the whole People, and a Faction, and he may easily make a true Judgment of all the pretended Elections of our *English* **Usurpers,** and all other **Traytors** whatever.

This is all worth notice that he says of this Kings Reign; but what is this to the great Councils or Parliaments; or how doth it prove that the Commons were an Essential part of them in this Kings Reign? Truly I cannot tell, nor I think any other Man, unless he will have it to be so, because some of the *English* by the instigation of the Bishops, and out of hatred to the *Normans*, took Arms for him, and helped him to overcome his Enemies. There were not, I suppose, many great Councils in *Rufus*'s his time; and in those we find mentioned, there is not the least probability, *that the Commons*, as now called and distinguished from the great Lords, had any place in them.

Eadmer fol. 20. n. 30. A. Dom. 1093. The great Councils in *Rufus*'s time.

I shall cite three or four, which I find clearly expressed. In the sixth year of this King there was a *great Council* at *Wincheſter*, wherein the King declared *Anselm Arch-Bishop* of *Canterbury*, and he did **Homage** to him. This Council is only thus expressed, **Rex adunato Wintonie conventu Nobilium,** without specifying either Ecclesiasticks or Laicks. The *King* having *Convened* the *Nobility* at *Wincheſter*, without doubt both Orders of the *Nobility* were there, both the Lords *Spiritual* and *Temporal*, but not the *Commons*.

At *Wincheſter*.

Eadmer fol. 26. n. 10. At *Rockingham*.

In the seventh of this King there was a *great Council* held in the Church in *Rockingham-Caſtle*, where the Question concerning the Kings Supremacy was discussed, **Ex Regia Sanctione ferme totius regni Nobilitas quinto Idus Martii in unum apud Rockingham coit.** That is, almost all the *Nobility* of the *whole Kingdom*, by the *Kings Edict* met at *Rockingham* on the eleventh of *March*; and five or six Lines before this, in the same Leaf, we are told what the *Nobility* were, and what the cause of their meeting. *Anselmus igitur Salvâ ratione suâ, quam de subjectione & obedientiâ Romanæ Ecclesiæ in medium tulerat, petivit Inducias ad istius rei examinationem, quatenus* **Episcopis Abbatibus cunctisque Regni principibus, una coeuntibus communi assensu definiretur, utrum Salva reverentia & obedientia sedis Apostolicæ posset fidem Terreno Regi Servare an non.** That is, *Anselm* saving his reason he had produced concerning subjection, and obedience to the *Roman* Church, desired Respit for the examination of the matter, that it might be defined in a Convention of the Bishops, Abbats, and all the great Men of the Kingdom, by common Assent, whether or no saving his obedience, and reverence to the Apostolick See, he might keep his Faith to a Terrene King.

An. Dom. 1094.

The Bishops, Abbats, and great Men only in this Council.

Ib. f. 38. l. 6. A. D. 1096, or 1097.

In the ninth or tenth year of this King, I find in the same Author there was another great Council, **in sequenti Mense Augusto cum de statu Regni agerus Rex Episcopos, Abbates, & quosque**

Regni

Regni Proceres in unum præcepti sui sanctione egisset. The King intending to act something concerning the state and affairs of the Kingdom, by his Edict convoked the *Bishops*, *Abbats*, *and all* the *Noblemen* of the *Kingdom*. Can any man but our Author think the Commons were any way represented in any of these great Councils, and in those times there were no other?

A Council in the 10th of *Rufus*, of the Bishops, Abbats and Noblemen only.

A

Henry the *First*.

FRom *Rufus* he passes to *Henry* I. who, according to his understanding of Elections, was an Elected King, though set up by a Faction; for *Malmesbury* says, there were only **Five great Men, Robert Fitz Haymon, Richard de Redders, Roger Bigot, Henry Earl** of **Warwick**, and **Robert Earl** of **Mellent** his Brother, all *Normans*, that favoured him, and by the contrivance, chiefly of **Henry Earl** of **Warwick**, he was made King, *all others sent privately to* **Robert Duke of Normandy**, that he would come and be their King, or at least *reproacht Henry* *. But when he came over, and most of the great Men either did or were about to revolt from *King Henry*, *Anselm Archbish* of *Canterbury*, who had given him great assistance in raising of an Army, after he had received from him great Promises, that all Church Affairs should be left to his direction, and diposing; and that he would for ever after obey the Decrees and Commands of the Pope, assembled the great Men, and so cajoled them and the Army, that he altered their Intentions; and it was from his Fidelity, and Industry that *Henry* lost not the Kingdom.

P. 67. Fol. 88. a. n. 20, 40. *Henry* I. set up by a Faction.

* *Eadmer* fol. 49. n. 10, 20, 30. Arch-Bishop *Anselm* dissuades the great men from setting up *Robert* D. of *Normandy*.

B C

Robert being thus disappointed, and fearing lest *Anselm* should Excommunicate him, consented to a Peace, and the two Brothers were reconciled.

D

Florence of *Worcester* says, that the day he was Crowned by *Maurice Bishop* of *Lincoln*, he gave great Liberties to the Church and Kingdom, and commanded that *King* **Edwards Laws** should be observed, with such Amendments as his Father had amended them; and adds, that very many of the great Men sent for him over, and promised him the Crown and Kingdom, and coming, they did some of them adhere to him. But the *Bishops*, *Common Soldiers*, and *English*, stuck close to *King Henry*, by whose means he raised a very great Army; but the Wisest Men on both sides consulted together, and by their Midiation, made Peace between the Brothers, on these Conditions, That **Robert** should yearly receive 3000 Marks, and that all such as had their **Earldoms** and **Baronies** taken from them in *England*, for their Fidelity to the Duke, and all those that had the like Estates taken from them in *Normandy* for their Fidelity to the King, should have them again freely, and without composition.

Fol. 650.

His Amendments and Additions were chiefly the two Feudal Laws here before explained. Which made them Laws be desired by the *Normans*.

A Peace made between *Robert* Duke of *Normandy*, and King *Henry*.

E F

Indeed *Mat. Paris* says the great Men of *England* (which were **Normans**) not knowing what was become of *Robert*, being gone five

Fol. 55. n. 20, 30.

Henry made great Promises to obtain the Crown.

five years in an Expedition to the *Holy Land*, and fearing to be long without Government, Henry *promising Amendment of their Laws, to restore their old Liberties and Customs, and the Laws of King* Edward, *and to confirm them; then he was Consecrated and Crowned King by* Maurice *Bishop of* London. And *Thomas Archbishop* of *York*, **favente populo & Clero**; which brings me to the consideration of those two words from which our Author thinks he hath so much advantage, and in clearing the sense of the word *populus*, shall answer most what remains in his Preface. A

Lexic. Jurid. in verbo.

Concerning the word **Clerus**, or what is meant by that, there is no controversie between us; and though perhaps we much differ about the sense of it, yet I pass it by, and come to the word **Populus**, which *Calvin* says amongst the *Romans* did equally signifie the *Patricii & Senatores* (which were there *Magnates*, or *Noblemen*) as *Plebs & Vulgus*, the inferior sort of People. But I shall not spend time about the foreign Notation of the word, and will therefore see whether it hath any other sense or meaning, *in our Laws and Historians*, than that our Author puts upon it; He always takes the meaning of this word **as contradistinct to Magnates, Nobiles**, &c. and understands it of the inferior sort of *People*, or at least of those, and such as were inferior to **Barons**, *Tenents in Capite*, and **Noblemen**. B

The meaning of the word *Populus.*

But he ought to take the meaning of **Populus**, as it is contra-distinct, to the word with which it is used, and to which it is opposed, that is **Clerus**, and then it signifies no more than **Laity**, *and they both together do import Clergy*, and *Laity*, or *Ecclesiasticks* and *Seculars*: So that the word **Populus**, here doth not denote a distinct State, or Order amongst Secular men or Laicks, but an **Order** and **State** of Men distinct from the *Ecclesiasticks*, or the *Clergy*. C

In this sense 'tis used in King *Ina*'s Laws **Ærest we bebeodeth that Godes Theowas hiora ryht Regole gyman and on ryht healdon Efter tham we beodeth that ealles Folces. æ. and Domas thus lynd gehealdene.** That is, First we command that *Gods Servants* or *Ministers* do observe their right Rule, and hold them to Justice; after them we command that all the *People*, do thus, or according to this Tenor hold the Laws and Judgments. D

In the Preface to King *Edward*'s Laws, the Laicks in this great Council were the great *Saxons*, as is clear by what is said before of their great Councils. Col. 858. n. 40.

King Edmund held a *great Council* at *Easter*, in *London*, **Egther Ge Godcundra hada, Ge Woruldcundra**, &c. *Lambert* thus translates these words, *Tam Ecclesiasticorum quam Laicorum*, as well of Ecclesiasticks as Laicks. *Brompton* translates the whole Preface more according to the true literal meaning of the words in this manner. *Edmundus Rex congregavit magnam Synodum Dei Ordinis & Sæculi apud Lundoniam civitatem in Sancto Paschæ Solenni, cui interfuerunt Odo, & Wulstanus Archiepiscopi, & alii plures Episcopi*, &c. In *English* thus, King *Edmund* summoned a great Synod at *London*, of *Gods Order* and the *Secular Order* in the Holy Solemnity of *Easter*, where were present *Odo* and *Wulstan*, *Arch-Bishops*, and many other *Bishops*, &c. E F

Lamb. fol. 58, &c.

In the second part of *Edmunds* Laws, are almost the same *Saxon* words, denoting the Members of a great Council, and the same way turned, except that for *Sæculi Ordine*, the worldly *Order* or *State*,

Brompton

Brompton hath *Laicis* Laymen. Here we see the *Saxon* words, which express **Clerus** and **Populus**, as they are used in opposition one to another, do signifie the *Clergy* and *Laity*, the two **General States**, and **Orders**, into which all Mankind is divided. Brompt. f. 860. n. 50.

But to come nearer to our purpose, *King Egbert*, having Conquered the greatest part of *England*, returning to *Winchester*, Dugd. Monast. vol. fol. 32. n. 60, &c.

A **vandabit omnibus Majoribus Regnorum, que conquesierat ut convenirent ad illum die certo Wintoniam: veniunt Wintoniam Clerus & Populus,** & *assensu omnium partium coronatus est. Egbertus in Regem totius Britanniæ. Commanded all* the great Men of the Kingdoms he had Conquered, that they should meet him at *Winchester* on a certain day: **The Clergy and People** came to *Winchester*, and by the assent of all Parties (that is, the great Men of every Kingdom) he was *Crowned King* of *Britain*: Who were

B here, the **Clerus & Populus**, the **Clergy** and **People**, but the **Majores Regnorum**, the great **Ecclesiasticks**, and **Laics** or **Laymen** of the several *Kingdoms* of *England* at that time? Having cleared the Notion of the word **Populus**, as it is used and joined with **Clerus** by way of *Antithesis*, or contra-opposition, I come to his own Instances in his own Authors, and begin as he doth, first with *Mat. Paris*: The whole Relation runs thus: P. 56. Fol. 55. n. 20, 30.

C *Defuncto itaque Rege Willielmo cum Magnates Angliæ ignorarent quod actum esset de Roberto D. Normannorum Regis defuncti fratre primogenito, qui jam per quinquennium in expeditione Hyerosolymitanâ moram pertraxerat, timuerunt Domini sine regimine vacillare. Quod Henricus fratrum ultimus, & Juvenis Sapientissimus, cum calidè cognovisset, congregato Lundoniis Clero Angliæ, & **Populo** universo, promisit emendationem Legum, quibus oppressa fuerit Anglia, tempore Patris sui, & Fratris nuper defuncti, ut animos omnium in sui promo-*

D *tionem accenderet & amorem*; & ut illum in Regem susciperent & *patronum*; *ad hæc* **Clero Respondente, & Magnatibus cunctis,** *quod si animo volente ipsi vellet concedere, & Chartâ sua communire illas libertates & consuetudines antiquas quæ floruerunt in Regno tempore sancti Regis Edwardi in ipsum consentirent, & in Regem Unanimiter consecrarent. Henrico autem hoc libenter annuente, & se id facturum cum Juramento affirmante consecratus est in Regem apud Westmonasterium in die Assumptionis Beatæ Mariæ,* **fabente Clero, & Populo,** August 15.

E *cui continuò a Mauritio Londinensi Episcopo, & Thomâ Eboracensi Archiepiscopo corona capiti imponitur.* That is, After the death of *King William*, the great Men of *England*, not knowing what was become of *Robert Duke of Normandy*, eldest Brother of the deceased King; who now had been absent five years in an Expedition to the *Holy Land*, were afraid to be long loose without Government: Which *Henry* the youngest Brother, and a Wise young Man craftily observing, having Convened the Clergy of *England*, and all the

F People, he promised Amendment of the Laws with which *England* was oppressed, in the time of his Father and Brother, lately deceased, that he might inflame the minds of all Men to love and promote him, and receive him as their King and Patron, **to which the Clergy and all the great Men answered**, That if he with a willing mind would grant to them the Laws which flourished in the Kingdom, in the time of *Holy King Edward*, they would unanimously

The Relation of *Mat. Paris* how *Henry* I. was made King.

nimously agree in him, and consecrate him King. *Henry* willingly granted this, and taking an Oath that he would perform it, was consecrated King at *Westminster*, upon the day of the Assumption of the Blessed *Mary*. **The Clergy and People** favouring him, upon whose Head the Crown was placed forthwith by *Maurice Bishop* of *London*, and *Thomas Archbishop* of *York*. Upon this Relation I shall make several Remarks:

A

First, That it was not possible for the *Clergy*, or all the People of *England*, or any that represented the People of *England*, to be at this **Consecration** and **Coronation** of *Henry*. For *Rufus* was slain in *New-Forest*, on the fourth of the *Nones*, or second of *August*, being Thursday, and *Henry* was Crowned upon the *Nones*, or fifth of the same Month, being *Sunday*. *So that it was impossible for the People in two days time, at any considerable distance from* London, to have notice of *Rufus*'s death, or to meet, choose, and send their Representatives to *London*, or indeed for the **Bishops**, and **Clergy** to come from the far parts of *England* in that time; and therefore it was only **Henry**'s **Party**, and **Faction**, in, and about *London, that he partially calls the* **Clergy, and all** the **People** of *England*.

Florent. Wigorn. who died the 19th of *Henry* I. Fol. 649. lin. 27. & fol. 665. lin.

B

Secondly, I note, That it was **Clerus & Magnates cunctí**; the Clergy and all the Noblemen, which answered him (making his great Promises) that if he would with a willing mind grant and confirm by **Charter**, their **Liberties**, &c. then they would consent, and unanimously consecrate and make him King, **not one word in this place of any Populus**, but the **Great** or **Noblemen, and therefore they must be the People, or Lay-men here meant.** But our Author very *unfairly* translates these words. **Ad hæc Respondente Clero & Magnatibus cunctis**, only by these words, **To which it was generally answered**; hereby imposing upon and cheating his Readers into an opinion that it was the **Populus Universus**, thereby meaning the **Plebs** and **Vulgar** that made this Answer, and consented to *Consecrate Henry King*.

The Clergy and great Men set up *Henry* I. not the People.

C

P. 6. The unhandsome Translation of the Author.

D

But further, to make good what I now say, let us see who were the *Constituent parts* of the *great Council* held at *Westminster* on *Michaelmas-day*, 1102. in the second year of this King; they were **omnes principes regni sui Ecclesiastici, & Secularis ordinis**; All the chief Men of his Kingdom, of the *Ecclesiastick* and *Secular*, or *Lay-Order*; or the **Clerus** and **Populus**. Or as *Eadmer*, who was then at this Council with *Arch-Bishop Anselm*, calls the Members of this very great Council, **Primates Regni utriusque Ordinis**, the prime or greatest men of both Orders, that is, the **Clerus & Populus**, or *Ecclesiasticks* and *Laics*; and three or four lines before he tells us, what the *Primates* of both Orders were, to wit, **Bishops**, **Abbats**, and the **Principes totius regni**, the *Princes*, or *chief Men* of the whole Kingdom, and therefore, **fauente clero & populo** must refer to the same persons expressed before in these words, **Respondente Clero, & Magnatibus cunctis**, who only consented and unanimously made him King.

Florent. Wigorn. f. 651. lin. 21.

Fol. 67. n. 20.

Clerus & Populus, Ecclesiasticks and Laics.

E

F

Thirdly,

Thirdly, That *Edward* the **Confessor's Laws** here desired, were those **Laws which William the Conqueror had amended**; they being very pleasing and acceptable to the *Normans* (who set up *Henry*) havingt hereby their **Reliefs made certain, their Military Fees hereditary,** and **freed** from all **extraordinary Tayes**, &c. as hath been shewed in the Exposition of the fifty five and fifty eight Laws beforementioned, but for all his fair Promises concerning these Laws and Liberties of the People, and his Flattering, Wheedling Speech, this Gentleman is so much taken with; his own Author tells us, that afterwards when with a *seared* and *cauterized Conscience* he had obtained the Kingdom, and *usurped upon his Brother* Robert, *who had manifest Right*, he impudently violated the Laws and Promises, by which he had drawn in all men to serve him.

Flor. Wigorn. fol. 650. l. 14.

Edward the Confessor's Laws, why pleasing to the *Normans*.

These amendments were Additions, not Corrections. P. 69.

Mat Paris fol. 61. n 50. fol. 62. n. 10, 20 30.

Henry I. violates his Promise.

Before we pass from King *Henry*, let us observe how *Eadmer*, that was constantly in the Family and company of Archbishop *Anselm*, and present at most of them, stileth the **Great Councils** in his Reign. He expresseth the *Great Council* at *Winchester* by these words. **Episcopis Terreque Principibus sub uno coactis.** A great Council at *London*, **Rex adunatus Lundonie Principibus Regni.** A Council at *Westminster* thus, **Concilium Episcoporum Abbatum & Principum totius Regni, & Primates Regni utriusque ordinis.** Another Council by **regni Ingenuitas.** Which two Lines before he calls **Episcoporum Regnique Primatum Concilium.** A second great Council at *London* he phraseth **Conventus Episcoporum Abbatum & Procerum Regni.** A third great Council at *London*, he reckons up the Members thus, **Archiepiscopi, Episcopi, & cunti Majores Regni.** A fourth there, **Episcopi & Principes Regni.** A fifth great Council at *London* he calls **Regnum Anglie.** A great Council at *Windsor* thus, **Episcopos & Principes Anglie in unum apud Windleshoram fecit venire.** Again, **Rex jussit omnes Episcopos & Principes totius Regni ad Curiam suam** sub uno venire. At *Salisbury* **Factus est Conventus Episcoporum Abbatum & Principum totius Regni.** A sixth great Council at *London*, **Episcopi Abbates & Nobiles quique Lundonie adunati sunt.** After this manner *Florence* of *Worcester* expresseth the Great Councils in this King's Reign, though he mentioneth not a fourth part of them. In all these not the least word of the **Commons**, much less of their being an **Essential part** of the great **Councils** or **Parliaments** of those times.

Fol. 62. n. 10.
Fol. 65. lin. 8.
Fol 67. n. 10.
Ibid. n. 20.
Fol. 70. n. 20.
Fol. 91. n. 20.
Fol. 94. n. 50.
Fol. 102 n. 50
Fol. 105. l. 3.
Fol. 109. n. 30.
Fol. 114. n. 30.
Fol. 117. n. 30.
Fol. 118. n. 20.

His next Instance is of King *Stephen*, that he was *assensu cleri & populi in Regem electus, & per Dominum Papam confirmatus*, That he was chosen King by the assent of the People, and confirmed by the Pope. 'Tis well this Gentleman brings in the Pope to help out his Title, for he mended all crackt Titles of Usurpers, and was most commonly the *Author* or *Abettor* of our *ancient Rebellions* in *England*. The words are taken out of the beginning of King *Stephen's Charter of Liberties* transcribed by *Malmesbury*. *Ego Stephanus Dei gratia assensu Cleri & Populi in Regem Angliæ electus, & à Domino Willielmo Archiepiscopo Cantuariæ, & Sanctæ Ecclesiæ Romanæ Legato consecratus, & ab Innocentio Sanctæ sedis Romano Pontifice postmodum confirmatus. Respectu & amore Dei Sanctam Ecclesiam liberam esse concedo, & debitam reverentiam illis Confirmo*, &c.

P. 64.

Hist. Novel. fol. 101. b. n. 20 Notwithstanding what he says of himself in his Charter, King *Stephen* was not elected.

And indeed most of the Liberties granted in this Charter, are to the Church; for by the contrivance of two or three great Churchmen, he was advanced to the Throne, though King *Henry* upon his Death-bed, being interrogated about a Successor, gave all his Estate here, and beyond Sea, to his Daughter Maude the Empress, and notwithstanding all the Nobility, and amongst them King *Stephen* himself, had sworn Fealty to her; yet by the interest of his Brother *Henry* Bishop of *Winchester*, (without which his Attempt had been frustrated) he was made King. He brought off *Roger* Bishop of *Salisbury*, a great and powerful Prelate, with *William de Pont-Arche*, Keeper of King *Henry*'s Treasure, which was 100000 *l.* in Money, beside Gold and Silver Vessels, of great weight, and inestimable Price. A

Ibid. fol. 100. b. n. 30.

Ibid. fol. 100. b. n. 30. *Henry* Bishop of *Winchester* the great Instrument in setting up King *Stephen*.

Malmesbury that flourished and wrote at this time, says, that by his own Dexterity, and the Artifice of his Brother, and *Roger* Bishop of *Salisbury*, and the advantage of this Money, he inclined the Minds of the Noblemen much towards him, and raised an Army chiefly of Flemmings and Britains; but speaks not of any great Council called, either to elect him King, or for the Solemnity of his Coronation; at which there were present only three Bishops, the Archbishop of *Canterbury*, and the Bishops of *Winchester* and *Salisbury*, no Abbats, and but a few of the great Noblemen; which was performed *December* 22. King *Henry* dying the first of that Month, there being but two and twenty days time, a short space for the People all over *England*, to have notice, meet, choose, and send their Representatives, if any such had been at that time: but it is clear from the Story, he was Set up and Crowned by a Faction, though he himself says in this Charter, he was elected by the Clergy and Laity, which must be the Nobility; for here is not the least mention of the *Milites* or *liberi homines*, the Knights or Free-men, having any thing to do as Actors in this Affair, in the whole Relation. B C D

Ibid. a. n. 40. & fol. 101. a. l. 5. Ibid. n. 10. & n. 20. now at least 500000 *l* Ibid. n. 40, 50. & b. lin. 5.

Stephen set up by a Faction.

Mat. Paris in his Narrative of this Transaction, in many things follows *Henry*, at this time Archdeacon of *Huntingdon*, who ends his History with the death of this King (save that *Paris* mentions a Convention of the *Magnates*, or Great Men at *London*, and that *Stephen* promised the Melioration of the Laws, according to their Will and Pleasure, which *Huntingdon* does not) who tells us that all the Bishops, Earls, and Barons that had sworn Fealty, and done Homage to the Daughter of *Henry* and her Heirs, consented that *Stephen* should be King; who tempting God, had invaded the Crown. E

Fol. 47. n. 20, 30, 40, &c. Fol. 121. b. throughout. The Relation how *Henry* I. was made King, out of *Paris* and *Huntingdon*.

Radulphus de Diceto Dean of St. *Pauls London*, who lived in the Reign of King *John*, about the year 1210. adds, That *Hugh Bigot*, being Steward of the King's Household (he dying in *Normandy*) hasted into *England*, and made Oath before the Archbishop of *Canterbury*, That *King* Henry *on his Death-bed, upon some differences which had happened between him, and his Daughter the Empress, did Disinherit her, and made* Stephen *Earl of* Bolloin *his Heir. Whereupon* William *Archbishop of* Canterbury, *giving too much credit to the words of the Steward, Consecrated* Stephen *Earl of* Mortaigne, *King at* Westminster: Here the Nobelmen, or Temporal Barons, must be the People, that is, the Laity that assented to *Stephen*'s being King; *for* F

Col. 505. n. 40, 50.

The Archbishop of *Canterbury* abused by a Story from *Roger Bigod*.

He was Earl *Belogne* and *Mortagne*.

The Noblemen, the People or Laity.

there

there are no other but the Bishops and these, said to have done any thing in this Matter; and it will be made appear upon examination of our *Authors Records*, that the People were not represented as at this day, in great Councils or Parliaments, before the 49th of *Henry* III. after the Conquest, and therefore no other Men can be understood by *Populus* the People or Laity than the *Nobility*. Nor can any discerning Person that duly considers these Relations of *Ste-*
A *phen*'s advancement to the Crown, ever believe he was duly chosen or elected, but on the contrary, must confess, that he usurped it by the assistance of a Faction.

And whether he played not the same Pranks Usurpers use to do for their own security and gratifying their Friends, any man that will may be satisfied by the Historians of those times. Fol. 282. b. n. 10 *Hoveden* was a Priest and a Lawyer, and a Domestick in the Family of *Henry* II.

Another *Instance* he brings out of *Roger de Hoveden*, **congregato Clero & Populo** *apud Clarendon*. These words he only cites, and says the *Learned Selden* calls this a full Parliament; 'tis granted to be a full great Council, as *Fitz-Stephens* calls it, or a Parliament
B of those times; *Convocatur generale Concilium apud Clarendonnam, Rex proponit & Scribit Dignitates quas avitas & in Regno Angliæ Esse debere Dixit, Fitz-Steph. p.* 20. but yet for all these two words, he so much insists upon (though he never understood the meaning of them in this place) the *Commons* as at this day were not an Essential part of this *Parliament*: Nor are *meant* by, nor *included* in the word *Populus*. To clear the point we must make a large rehearsal of somewhat agitated in this general or great Council, and
C the occasion of calling it. *Becket Arch-Bishop* of *Canterbury* had promised *King Henry* II. at *Woodstock*, that he would really and without fraud observe his Laws. *Et paulo post congregato Clero, & Populo, apud Clarendon, pœnituit Archiepiscopum quod ipse concessionem illam fecerat Regi. Et volens resilire a pacto, dixit se in illâ concessione graviter peccâsse, & quod in hoc amplius non peccaret. Unde Rex plurimum in irâ adversus eum commotus, minatus est ei & suis exilium, &*
D *mortem. Venerunt ergo ad Archiepiscopum, Salisburiensis & Norvicensis Episcopi, & Robertus Leycestriæ, & Reginaldus Cornubiæ Comites, & duo Templarii scilicet Richardus de Hastings, & Tostes de sancto Homero, & lacrymantes provoluti ad pedes Archiepiscopi, petebant, ut saltem propter honorem Regis, veniret ad eum, &* **coram populo** *diceret,* **se leges** *suas recepisse. Precibus igitur tantorum virorum* **Archiepiscopus victus venit ad Regem, & coram clero & populo dixit,** *se leges illas, quas Rex avitas vocabat, suscepisse. Et concessit ut Episcopi leges illas susciperent, & ut illas custodire promitterent.*
E **Tunc precepit Rex universis Comitibus & Baronibus Regni, ut irent foras & recordarentur legum Henrici Regis avi sui & eas in scripto redigerent; quod cum factum fuisset** *precepit Rex Archiepiscopis, & Episcopis ut Sigilla sua apponerent Scripto illi, & cum cæteri proni essent ad id faciendum, Archiepiscopus Cantuariensis juravit quod nunquam, scripto illi apponeret, nec Leges illas confirmaret.* That is, and a little after (*Becket* had granted to observe the Kings Laws) the *Clergy* and *People* or *Laity*, being Convened at *Clarendon*, the
F Arch-Bishop repented that he had made such a Concession to the King, and intending to run back from his Bargain, he said he had grievously sinned, in that Concession, and that he would sin no more in the like kind; whence the King was much moved with Anger against him; threatning Banishment and Death to him and his: therefore the *Bishops* of *Salisbury* and *Norwich*, the *Earls* of *Leicester*, and *Cornwall*, and *two Templars*, *Richard de Hastings*, and

Ibid. The Story of *Tho. Becket* Arch Bishop of *Canterbury* at the Council of *Clarendon*.

Toſtes de Sancto Homero, came to the Arch-Biſhop, and weeping, caſt themſelves at his feet, and beſeeched, that at leaſt for the Honour of the King, he would come to him, and ſay before the People, he would receive his Laws. **The Arch-Biſhop, overcome by the intreaty of ſo great Men, came to the King, and before the Clergy, and People, or Laity, ſaid,** *He would receive thoſe Laws which the King called Ancient*; and he granted that the Biſhops ſhould receive thoſe Laws, and Promiſe to keep them. *Then the King commanded* **all the Earls and Barons of the Kingdom, that they ſhould go out of the place where they were,** and recount, or call to mind the Laws of King *Henry* his Grandfather, and reduce them into writing, which when they had done, *the King commanded the Arch-Biſhops and Biſhops*, that they ſhould put their Seals to that Writing, and when the reſt were ready to do it, the *Arch-Biſhop* of *Canterbury*, ſware that he would never ſet his Seal to that Writing, or confirm thoſe Laws.

There were only the King, Biſhops, Earls, and Barons together.

The Earls and Barons were commanded out to prepare thoſe Laws which the Arch-Biſhop had promiſed before them, the King and Biſhops.

By theſe paſſages it is evident that the Arch-Biſhop was urged to come to the King and ſay **coram populo,** before the *People* or *Laity*, that he received the Kings Laws, and he comes to the King and confeſſed **coram Clero, & Populo,** before the Clergy, and People or Laity, that he had received them. Then the King *commanded all* the **Earls,** and **Barons** of the *Kingdom* (which muſt be the *Populus*, the People or Laity here meant, and no other) *to go out from the Clergy, where they were all together*, and recount the Laws of his Grandfather King *Henry*, and put them in Writing. And when that was done, commanded the *Clerus*, the *Biſhops* only, to Seal them. From whence 'tis moſt clear, that the Earls and Barons only, in this great Council were expreſſed and meant by the word *Populus*, People or Laity.

Who were the *Clerus & Populus* in the great Council of *Clarendon*

Fol. 100. n. 20.

Mat. Paris enumerates the Conſtituent parts of the Parliament without any Commons.

And agreeable hereunto, *Mat. Paris* ſays of this very great Council or Parliament, *An. Dom.* 1164. 10 *Hen.* 2. *In præſentia Regis Henrici apud Clarendon 8 Calend. Febr. præſidente Johanne de Oxonia, de mandato ipſius Regis,* **præſentibus etiam Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Proceribus Regni, facta eſt recognitio,** That is, in the year of our Lord 1164. 10 *Hen.* 2. in the preſence of the *King* at *Clarendon*, on the 26th of *January*, *John* of *Oxford* preſiding, according to the *Kings Mandate*, and the *Arch-Biſhops*, *Biſhops*, *Abbats*, *Priors*, *Earls*, *Barons*, and *Great Men* of the Kingdom preſent, there was made a *Recognition*, &c.

Lib. 1. cap. 26.

See *Regnum in Gloſſar.* The Parliament at *Clarendon*, of whom it conſiſted. Col. 1385. n. 60. A.D. 1164.

Quadrilogus thus expreſſeth this Council, *Rex apud Clarendune Regnum Convocat Univerſum, Quò cum* **prælules, & proceres** *Conveniſſent, Exegit Rex inſtantius, ut promiſſa ſibi ſolverentur*: The King called the whole Kingdom (that is the Nobility which in thoſe days Conſtituted the Kingdom) to *Clarendon*, where when the *Biſhops*, and *great Men* came together, he urgently preſſeth them, to make good their promiſe to him. *Gervaſe* of *Canterbury* ſays, *Congregati ſunt* **prælules, & proceres** *Regni Anglicani, apud Clarendoniam in feſtivitate ſancti Hillarii*, the *Biſhops*, and *great Men* of the *Kingdom* of *England*, met together at *Clarendon* in the Feaſt of St. *Hillary*.

Tit. Hon. f. 585.

What can be more clear *by this enumeration of the conſtituent parts of this full Parliament*, (as our Author and Mr. *Selden* agree it to be) than that the **Commons** *were* **none** *of them*, and that the **Clerus & Populus** in *Hoveden* were only the *Clergy* and *Lay Nobility*.

King

King John.

THe last *Inſtance* is of *King John*, that he was Crowned *mediante tam* **Cleri quam populi** *unanimi conſenſu & favore.* By the unanimous conſent of the Clergy, and People or Laity. The ſame *Roger de Hovedon* a *Lawyer*, and Favorite of *Henry* II. in whoſe Court he lived until the Kings death, who continued his Annals to the fifth year of *King John*, in which he died, gives us an account, both how *King John* obtained the Crown, and alſo of his Coronation. *King John* when his *Brother Richard* died of the Wound he received before *Chalutz Caſtle* in *Limoſin*, was in *Normandy*; from whence he immediately diſpatched *Hubert Arch-Biſhop* of *Canterbury*, *William Mareſchal Earl* of *Strigoil*, *Geofry Fitz-Peter*, and *other Barons*, to keep the Peace of *England*, *who cauſed Citizens, and Burghers, Earls, Barons, and Free-men, to Swear* Fealty, *and the Peace to* John Duke *of* Normandy, *the Son of* King Henry, *the Son of* Maude *the Empreſs, againſt all men.* And the ſame three, meeting at *Northampton*, Convented before them ſuch as they doubted of, namly, David *Brother to the King of Scots*, *Richard Earl* of *Clare*, *Ranulfe Earl* of *Cheſter*, *William Earl* of *Tutesbury*, *Walran Earl* of *Warwick*, *Roger Conſtable* of *Cheſter*, *William de Mowbray*, and *many other Earls*, and *Barons*; and aſſured them that *John Duke* of *Normandy*, would do every one of them right, if they would keep Faith and Peace with him. On this condition the ſaid *Earls* and *Barons* ſware Fealty and faithful Service to *John Duke* of *Normandy*, againſt all Men.

Pitſius An. Dom. 1204. Fol. 450. b. n. 10,20,30,40, 50. Ibid. fol. 451. a.n.10,20,30. How King *John* obtained the Crown.

Ibid.

Not long after *Duke John* came into *England*, and there met at *London*, in expectation of him, *Hubert Arch-biſhop* of *Canterbury*, *John Arch-Biſhop* of *Dublin*, *William Biſhop* of *London*, *Gilbert Biſhop* of *Rocheſter*, *John Biſhop* of *Norwich*, *Hugh Biſhop* of *Lincolne*, *Euſtachius Biſhop* of *Ely*, *Godfrey Biſhop* of *Wincheſter*, *Henry Biſhop* of *Exceter*, *Sefrid Biſhop* of *Chicheſter*, *Geofry Biſhop* of *Coventry*, *Savarie Biſhop* of *Bath*, *Herbert Biſhop* of *Salisbury*, *Philip Biſhop* of *Dureſme*, *Roger Biſhop* of *St. Andrews* in *Scotland*, and *Henry Biſhop* of *Landaff*: *Robert Earl* of *Leyceſter*, *Richard Earl* of *Clare*, *William Earl* of *Tutesbury*, *Hamelin Earl Warren*, *William Earl* of *Salisbury*, *William Earl of* Strigoil, *Walran Earl* of *Warwick*, *Roger Bigot Earl* of *Norfolk*, *William Earl* of *Arundel*, *Ranulfe Earl* of *Cheſter, and many Barons.* At which time *Hubert Arch-Biſhop* of *Canterbury* Conſecrated and Crowned *John Duke* of *Normandy*, *King* of *England*, upon *Aſcention-day*, being the 27th of *May*, in St. *Peters* Church at *Weſtminſter*.

A. D. 1199.

Matth. Paris, who wrote toward the end of the Reign of *Henry* III. and died in the year 1259. after he had written from *Hoveden*, what is here related, ſays, *Congregatis itaque apud Lundonias in adventu ejus, Archiepiſcopis, Epiſcopis, Comitibus, Baronibus atque aliis omnibus qui ejus Coronationi intereſſe debuerunt, Archiepiſcopus ſtans in medio omnium dixit*, &c. That is, the *Archbiſhops*, *Biſhops*, *Earls and Barons, and all others that ought to be preſent at his Coronation, meeting*

Fol. 197. n. 20. &c. *Mat. Paris* his Account how King *John* obtained the Crown. See exact Hiſt. of the Succeſſion in King *John*.

meeting at London, the Arch-Bishop standing in the middle of them all, made a Speech to them, and perswaded them to **Elect** *John* Duke of *Normandy King*, which they did, and he was Crowned as was said before: **He was set up and Crowned by Arch-Bishop Hubert and his Faction**, *Arthur* Duke of *Britain*, Son of *Geofry* his Eldest Brother, being the Right Heir, and then about Fourteen years of Age. But here is not the least mention of a **Great Council**, or the **Commons**, unless it be said, this Convention be one, as most certainly it was not, here were the Bishops and Temporal Lords only present, and Actors in this Transaction. There might be a great many of the *Commons Spectators* at this Solemnity; but the Bishops, Earls and Barons, were they, which acted and contrived the Crowning, and making him King, and they only were the **Clerus**, and **Populus**, the *Clergy* and *People*, or *Laity* here meant, the *Commons* having done nothing in this Matter, for ought what appears in the Story.

K. *John* an Usurper.

A

B

Preface p. 65.

50 *Hen.* 3. *m.* 3.

Lastly, our Author says out of *Mat. Westm. f.* 397. *n.* 50. That 50 *Hen.* 3. *per providentiam Cardinalis*, meaning the Popes Legat, *apud Kenilworth Clerus & Populus Convocantur*, which the Patent Roll of that year thus confirms; The King *á le Requeſt de Honourable pier ſire Ottobon legat de Engleterre ſon parlement Euſt Summons á Kenilworth*, where the Statute, or *dictum de Kenilworth* was made, between the *King* and his *Communante*, or *Parlement*: *Rex primo, poſtmodum Clerus & Populus Juraverunt, quod Dictum inviolabiliter obſervarent*: These are Mr. *Petyt*'s words, and all he hath from *Matth.* of *Weſtminſter*, or the *Patent Roll*; and from hence and some such other stuff proceeding, concludes, That, he hoped, at length he had fully ascertained, and explained the Historians Phrase, *Clerus* and *Populus*, and proved it to be a *Parliament* from the *Patent Roll* of *Henry* III. wherein I know no man opposeth him; but I see not, that he proves from thence, that the *Commons* as now understood and represented, were in that *Parliament*, or were any part of the *Populus*. But I think the contrary rather appears from his Authorities, when fairly cited and duely understood.

C

No Commons in that Parliament that made the *Dictum de Kenilworth*.

D

Fol. 397. n. 50. f. 398. lin. 1.

First, *Mat. Westm.* tells us, that, *Favente Rege, per providentiam Cardinalis apud Kenelworth*, **Clerus & Populus** *Convocantur, Eligebantur ibidem duodecem perſonæ, de* **Potentioribus procerum, & Prudentioribus Prelatorum**, *quibus dabatur poteſtas ordinandi ſub ſtatu Exhæredatorum. Electæ perſonæ Jurabant, de Utilibus ordinandis; Rex primo, poſtmodum Clerus & Populus Juraverunt. Quod* **Dictum** *ipſorum, inviolabiliter obſervarent*: **Dictum** *Ergo Kenelworthiæ tale fuit*, &c. The King favouring his Intention, by the providence of the *Cardinal*, the Clergy and Laity were called together at *Kenelworth*, where were chosen twelve Persons, the most *powerful* of the *great Men*, and *Wiſeſt* of the *Prelats*, who had power of Ordaining, and making Terms concerning such whose Estates were taken from them. The Persons chosen did Swear to do things advantageous to all; The King first, and afterwards the *Clergy* and *Laity* sware inviolably to observe their *Decree*, called the *Decree* or **Dictum** of *Kenelworth*, whereof the Historian gives only some Heads.

E

F

The

The Record runs thus: *Nostre Seignor* Henry *par la Grace Dieu Rois de Engleterre lan de son Coronement Cinquantisme, as octaves de l'assumption nostre Dame á la Requeste le Honorable pere Sire* Ottebon *Legat de* Engleterre *son Parlement eust semons á* Kenilleworth, *acorde fu & grante per Comun assen & Comun Conseil des Evesques, Abbes, Priors, Contes, Barons & tuz* * *autres ke sis Persones suz Escrites, Coest a scavoir le Evesque de Excestre, Leveſque de Bai, Le Estit de Wirceſtre, Sire Aleyn la Zuſche Sire Roger de Sumery & Sire Robert Walerand par lur ſerment que itokes firent elisent autres sis qui Miens seient en Sospeſcon, & meuz ſachent & voillent ſolonc lur intendement, des queus* VI *vns sera prelaz, & les cync serons chevalers & ices doze jurront ſor ſeinz Evangilles*, &c. Our Lord *Henry*, by the Grace of God King of *England*, the Fifrieth year of his Reign, in the *Octaves* of the *Assumption* of our *Lady*, at the Requeſt of the honorable Father Sir *Ottobon* Legat of *England*, ſommoned his Parliament at *Kenelworth*, where it was agreed and granted, by common Aſſent, and Common Counſel of the **Biſhops, Abbats, Priors, Earls, Barons**, and all **others**, that ſix Perſons under written, that is to ſay, the Biſhop of *Exceſter*, the Biſhop of *Bath*, the Elect of *Worceſter*, Sir *Alan Zouche*, Sir *Roger Sumery*, and Sir *Robert Walerand*, by their Oath there made, ſhould chooſe ſix others, no ways ſuſpected, who knew beſt, and would, according to their underſtanding, do what was beſt for the Security and Peace of the Land, of which ſix, one was to be a Biſhop, and the other five Chevaliers or Barons; and thoſe twelve ſwore upon the Holy Goſpels, *&c.*

Pat. 50 Hen. 3. M. 9.

* i. e. Milites & liberi Homines; *the ſmaller Tenents* in Capite.

How the Parliament was ſummoned, will be declared, when we ſpeak of King *John*'s Charter, or *Magna Charta*.

The twelve Commiſſioners that made the **Dictum** *de Kenelworth*, are all named in the Preamble of it, and were theſe, *W. Exonienſis, W. Bathon. & Wellens. W. Wigorn. & R. Menevens. Epiſcopi. Gilbertus de Clare Comes Glouc. & Hertfordiæ, Humfridus de Bohun Comes Herefordiæ, Philippus Baſſet, Johannes Baliol, Robertus Waleran, Alanus de la Suche, Rogerus de Somery, & Warinus de Baſſingbourn, ſuper facto Exhæredatorum, habentes á Domino* **Rege**, *& ab aliis* **Baronibus Conſiliariis** *Regni, &* **proceribus** *Angliæ plenariam poteſtatem*, &c. *Walter Broneſcome* Biſhop of *Exceſtre*, *Walter Giffard* Biſhop of *Bath* and *Wells*, *Walter de Cantilupo* Biſhop of *Worceſter*, *R.* Biſhop of *St. Davids*, *Gilbert de Clare* Earl of *Glouceſter* and *Hertford*, *Humphry Bohun* Earl of *Hereford*, *Phillip Baſſet* of *Wycomb*, *John Baliol*, *Robert Waleran*, *Alan Zouche*, *Roger de Sumery*, *Warinus de Baſſingborn*. Having full power to determine concerning the Fact, of ſuch as were diſpoſſeſſed of their Eſtates, from the King, and from other Barons, Counſellors of the Kingdom, and the great men of *England*, &c.

Biblioth. Cotton. Claud. D. 2. f. 132. b. No Commoners amongſt the Commiſſioners, that made the *Dictum de Kenilworth*.

See Godw. de Præſul. in theſe Biſhops.

Phillip Baſſet of *Wycomb* in *Buckinghamſhire*, was a great Baron, and made Juſtice of *England* the 45th of *Henry* the Third; he was the laſt that ſtood and fought ſtoutly for the King in the Battle of *Lewes*, was there taken Priſoner, and ſent to *Dover* Caſtle.

Dugd. Baron. Tom. 1. f. 384. col. 1, 2.

Alan Zouche of *Aſhby* was a Baron in great Imployments under King *Henry* all his Time, in 45th and 46th of his Reign, he was Warden of all the King's Forreſts, South of *Trent*, and Juſtice Itinerant of the Counties of *Southampton*, *Buckingham*, and *Northampton*.

Ibid. fol. 689. col. 1.

John

Ibid. fol. 524. col. 1, 2.

John Baliol a great Baron, he had thirty Knights Fees, 13 *Hen.* 3. always faithful to the King, and taken Prisoner at *Lewes.*

Ibid. fol. 671. col. 2.

Robert Waleran was a Baron, and in the Battle of *Lewes*, and in the Battle of *Evesham* with Prince Edward, and had several great Imployments under King *Henry.*

Ibid. fol. 680. col. 1, 2.

Warin de Bassingborn was a Baron, and always faithful to the King, and at the Battle of *Evesham* with *Robert Waleran.* A

Ibid. fol. 613. col. 1, 2.

Roger de Sumery had one and fifty Knights Fees, 29 *Hen.* 3. in the Seventeenth of the same King, all his Lands in *Worcestershire* were seized, for neglecting upon Summons to take the Honor of Knighthood, he was made Prisoner at the Battle of *Lewes*, fighting stoutly for the King.

B

If this Gentleman could have prevailed with himself, to have fairly cited this Historian and Record, certainly he could not, with any pretence of understanding, have produced them to prove, that the Commons, as now Represented, were in this Parliament: For the Record tells us what, and who the *Clerus & Populus* was, which the King called to *Kenelworth*, namely, the Bishops, Abbots, Priors, Earls, Barons, and all others; which all others, are sometimes expressed at large, by *Milites*, *liberi homines*, or *liberè Tenentes*; and sometime simply and inclusively by the words, *& omnes alii*, who were the smaller sort of Tenents *in Capite*, as will be evident by what shall be further said in that point hereafter.

No Commons in the Parliament, that appointed Commissioners to make the *Dictum de Kenilworth.*

C

By this Clergy and Laity, were six Commissioners chosen at first, who had Power to choose six more, all the Twelve, answer the Historians Description of them, in general. That they were of the more Potent of the great men, and more Prudent of the Prelates. And the *Dictum* it self tells us particularly the names of the four Bishops, two Earls, and six Barons, that made up that number, and informs us, that they had their Power from the King, and from other Barons, Counsellors of the Kingdom, and the *Proceres* or great men of *England*, which could be no other than the Bishops, Abbots, Priors, Earls, Barons, and the *all others* mentioned in the Record; and out of these it will be a hard matter for any observing Person to pick out one Commoner, though it's easie for this Writer to find out Hundreds.

Nor any Commons amongst the *Clerus & Populus*, the Clergy and Laity, that Constituted this Parliament.

D

E

Having dispatched the second Proposition, and examined his Preface, I shall still pursue his Method, and see, whether by the Records he makes use of, he hath proved his first Proposition, that is, the Commons, as Represented by Knights, Citizens and Burgesses, to have been a third Estate, or an Essential and Constituent part of the Parliament, before the 49th of *Henry* the Third.

P. 72.

F

His

His First Argument Considered.

THE *Authors First Argument* is, from the Claim and Prescription of the **Burrough** of **St. Albans**, in the Eighth of *Edward* the Second, that it had sent **two Burgesses to Parliament, as other Burroughs had**, as well in the time of his Father King *Edward* the First, as in the time of his Progenitors, and if so, in the time of King *John* his Grandfather, and so before *Henry* the Third; by what he hath laid together, by picking here a piece and there a piece out of this Record, he hath made a very specious Argument to prove there were, as at this day in the time of King *John* at least, Burgesses sent to the Parliament: and if there were no more in the Record than what he hath Transcribed, I could not but be of his mind. The whole Record here follows, P. 3. & 7, 8, &c.

Ad Petitionem Burgensium villæ de Sancto Albano, *suggerentium Regi, quod licet* **ipsi tenent villam prædictam de Rege in capite**, *& ipsi sicut cæteri Burgenses Regni ad Parliamenta Regis cum ea summoniri contigerit, per* **duos Comburgenses suos venire debeant**, *prout totis retroactis temporibus venire consueverunt pro* **omnibus servitiis Regi faciendis**, *quæ quidem* **servitia**, *iidem Burgenses & Antecessores sui Burgenses villæ prædictæ, tam tempore Domini* Edwardi *nuper Regis Angliæ, patris Regis, & progenitorum quam tempore Regis nunc semper ante instans Parliamentum, ut præmittatur, præstiterunt; Nomina quorum Burgensium sic prædictâ villâ ad Parliamenta Regis venientium, in Rotulis Cancellariæ, semper irrotulata fuerunt. Nihilominus Vicecomes Regis comitatûs Hertfordiæ, ad procurationem, & favorem Abbatis de* Sancto Albano, *& ejus consilium, Burgenses prædictos præmunire, ceu nomina eorum retornare,* **ut ipsi servicium suum prædictum facere possunt** *penitus recusavit, in contemptum Regis & Burgensium prædictorum præjudicium &* **exheredationis periculum** *manifestum, super quo petunt remedium oportunum.*

R. est per Consil.

Parl. 8 *Ed.* 2. n. 233. The Petition of the Burgesses of St. *Albans.*

Scrutentur Rotuli, &c. *de Canc. si temporibus progenitorum Regis, Burgenses prædicti solebant venire, vel non. Et tunc fiat eis super hoc Justicia, vocatis evocandis* **si necesse fuerit.**

Response.

In English *thus.*

Upon the Petition of the Burgesses of the Town of St. *Albans*, suggesting to the King, *That although they* **hold the Town aforesaid of the King in Chief**, and they as other Burgesses of the Kingdom, ought to come to the King's Parliaments, when they should happen to be Summoned, by two of their Fellow Burgesses, as they were used to do in all past times, **for all Services which were to be performed** *to the King.* Which **Services** the same Burgesses and their Predecessors, Burgesses of the said Town, have performed,

The Controversies about Members of the Lower House were then referred to the King and Council, in the time of *Edw.* 2.

performed, as is before declared, *as well in the time of* Edward, *late King of* England, *Father of the King and his Progenitors, as in the time of the King that now is, always before this present Parliament*: The Names of which Burgesses for the said Town, so coming to the King's Parliaments, were always inrolled in the Rolls of the Chancery; Nevertheless, the King's Sheriff of the County of *Hertford*, by the favor and procurement of the Abbot of St. *Albans*, and by his advice *refused to warn the said Burgesses, or return their Names according to his duty,* **that they might do their Service aforesaid**, in contempt of the King, and prejudice of the Burgesses aforesaid, and *manifest danger of* **disinheriting** *of them*, for which they crave an opportune Remedy. A

It was answered by the Council.

The Answer to the Petition.

Let the Rolls of Chancery be searched, &c. if in the time of the King's Progenitors, the Burgesses aforesaid used to come or not, and then let them have Justice in this Matter, and such as have been called, may be called, if there be necessity. B

We find, in this Record, that the Burgesses of St. *Albans*, and of the other Burroughs, did, and ought to come to the *Parliament by reason of their* **Tenures in Capite**, *for that it was in lieu* **of all other services** *to be performed to the King in respect of that Tenure.* And then they say, in this Petition, that the Burgesses of St. *Albans* had performed these Services, as well in the time of *Edward* the First, and his Progenitors, as in the time of *Edward* the Second, always before that present Parliament, and urge the neglect of the Sheriff in not giving notice to the Burgesses, and returning their Names as a prejudice to them, *and a manifest danger of their being* **disinherited** *of this* **easie Service**; and having some other great or more hard Service put upon them, which in all probability must have been, if once they had lost this Service of coming to the King's Parliaments, which was in its self a discharge from all other Services. C D

All this our Author hath concealed, to impose upon his Readers, and to make his Assertion to be believed by all such as are inclinable to it, or that have a Veneration for our *English* Records; for 'tis evident, the **Burgesses** of **St. Albans** claimed not, nor prescribed to come to Parliaments **meerly** as from a **Burrough**, but as from *a Town that held in Chief of the King*; and this Service was incident to their Tenure, and was such as the King's Progenitors had accepted *in lieu of all Services due by reason thereof.* E

St. *Albans* sent Burgesses to Parliament, not as a Burgh, but as a Town, that held of the King *in Capite.*

And further, the Answer to this Petition is Remarkable, for if it did appear by the Chancery Rolls, that the Burgesses of St. *Albans* were wont to come to Parliaments in the times of the King's Progenitors, *then such as have been called, should be called* **when there was necessity** *for it.* Hence 'tis clear, the **King** and his Council were **equally Judges** *when it was* **necessary to call them**, *and for* **them** *to come; as they were of their Right, and pretences to come.* F

King and His Council Judges, whether, and when Burgesses ought to come to Parliaments.

It

It hath been objected, by one that seldom knows or understands what he says, that *Evocatis Evocandis* cannot be understood of calling Burgesses to Parliament, but those words are so to be interpreted, that if after the Rolls were searched, farther tryal, or hearing of the Parties were necessary, they should be called, and their Reasons heard. The Author of *Jus Anglor. ab antiquo*, p. 30.

A To this it is answered, that every Plea ought to be triable, either by the Country, if matter of Fact, or by the Justices, if matter of Law, or by the Record it self, if it consist in matter of Record, for the Law doth give so much Honor and Credit to Records, that they shall be tried only by themselves; This Trial therefore depending wholly upon Record, the words cannot be understood, of calling Parties in order to any farther Trial. *Cokes* Reports part 9. the Case of the Abbat of *Strata Marcella*.

B

The Second Argument considered.

OUR Author's Second Argument is grounded upon some parts of three several Records in the Fifteenth of King *John*, which P. 13, 14, 15, 16.

C he hath again picked out to serve his purpose, and impose upon his Readers. Yet in his Appendix he hath Printed two of these three Records, and wholly omitted the third, *viz.* the most necessary one, that concerns the Cities and Burghs, which he **calls** P. 158, 160. P. 14. lin. 2.

the **great Record**, and by which he endeavors to prove, that the great Cities and Burroughs, *did send their* **Proxies** and **Representatives** to the Common Council, or Parliament, before the Seventeenth of King *John*; Ibid. lin. 13.

D but instead of the Record it self, he Prints and Publishes only the Direction of it to the Cities and Burroughs. And says, that the King being *in partibus transmarinis*, Ibid. p. 15.

beyond the Seas wrote to thirteen **Cities** and **Burghs**, there named, and all the great Burroughs of the Demeasnes of the King, giving them an account of his Proceedings and Successes in his War against the French, and that the **Pope**, by his Letters, had Released the Interdict under which the Kingdom then lay, which the King had then sent to *Peter* Bishop of *Winton*, Chief Justice of *England*; and therefore desired that they would believe what the Bishop

E should speak to them, that **Concilium & auxilium vestrum**, *ad honorem nostrum & vestrum & statum regni nostri in melius commutandum efficaciter super hoc apponatis*, and that *Majori festinatione expediretur. Teste Apud Rupellam 6 die Martii*, that they might effectually give their Advice and Aid concerning the Relaxation of the Interdict to the King's Honor and their own, for the bettering the State of the King, and that very speedily; Witness Our Self at *Rochel* the sixth day of *March*. Ibid. & p. 16.

F

None of **these last Words**, nor indeed not many of the former, do belong to, or are to be found in this **great Record** (as he calls it) but he takes them out of another, and applies them to this; and therefore for the discovery of this Artifice, and unhandsome dealing with, and **false Application** of **Records**, I must, though it prove

tedious to the Reader, Transcribe both these Records, the first whereof follows.

Pat. 15. *Johannis*, p. 2. m. 2. *Richard* I. died *April.* 6. 1199. The Writ to the Nobility, &c. K. *John* committed the Custody of *England* to *P.* Bishop of *Winton*, and made him Justiciary during pleasure at *Portsmouth*, Feb. 1. *Pat.* 15. *Johannis*, m. 4. n. 11, 12.

Rex Baronibus, Militibus & omnibus fidelibus totius Angliæ salutem, Sciatis quod die Martis proximâ ante medium quadrageſimæ ſuſcepimus Literas Domini Papæ in partibus Pictaviæ de factâ relaxatione Interdicti Angliæ, quas deſtinavimus venerabili Patri Petro Winton, *Epiſcopo Juſticiario noſtro, & vos rogamus attentiùs tanquam dilecti & fideles noſtri, de quorum Dilectione & fidelitate plene confidimus,* **quatenus ſecundum quod Idem Epiſcopus vobis dicet Concilium & Auxilium veſtrum,** *ad honorem noſtrum & veſtrum, & ſtatum Regni noſtri in melius commutandum efficaciter ſuper hoc apponitis, ut vobis inde, ad uberes teneamur gratiarum Actiones & ut Dilectionem, quam hactenus erga nos habuiſtis in hoc, merito dehinc commendaremus.* **Unicuique veſtrum ſi fieri poteſt, Literas noſtras ſuper hoc tranſmiſſemus,** *ſed ut negotium illud quod & nobis & vobis ad commodum cedat & honorem cum majori expediretur feſtinatione, has Literas,* &c. *Teſte meipſo apud Rupellam* vi. Die Martii.

Vid Gloſſ. verb. fidelis, The King Wrote particularly to *William Marſhall*, and all the Earls. At this time the Interdict was not actually Releaſed, but upon the 29. of *June* following. *Mat. Paris*, fol. 249. n. 50. *Secundum quod idem Epiſcopus vobis Dicet.*

The King to Barons, Knights, and to all * Feudataries, or Vaſſals through *England*, Greeting. Know ye, that being in *Poicton* on Tueſday next before the middle of *Lent*, We received the Popes Letters concerning the Releaſe of the Interdict of *England*, which We ſent to the Reverend Father, *Peter* Biſhop of *Wincheſter*, our Juſticiary; and We require you earneſtly, as Our well-beloved, and Feudataries, of whoſe Kindneſs and Fidelity We have a full confidence, **that according to what the ſame Biſhop ſhall ſay unto you,** *ye may effectually give your advice and aid in this matter,* to our Honor and yours, and for changing the ſtate of the Kingdom into the better: That therefore We may be obliged to give you greater thanks, and that in this Affair We may worthily commend the Kindneſs you have had towards Us hitherto: **We had ſent Our Letters to every one of you,** *if it might habe bèn done, but that the buſineſs might redound to Our and your Honor and Profit, it ought to be diſpatched with greater haſt.* Witneſs my Self at *Rochell* the ſixth day of *March.*

P. 158, 159. The Author makes one Record out of two pieces of Different Records, from which being put together, he frames this Argument. *Pat.* 15. *Johannis*, p. 2. m. 2. The King's Letter to the Cities and Burghs.

After this Record in his Appendix, *he ſubjoyns the Names of the Cities and Boroughs with the ſame Circumſtances, and after the ſame manner as they follow at the bottom of the next Record,* upon the Patent Roll of this year in the Tower, there being upon that ſame Roll, not the leaſt mention or note of them under this foregoing Record.

Rex probis hominibus Cant. ſalutem, ſciatis Nos & Fideles noſtros quos nobiſcum adduxerimus in Pictav. ſanos eſſe & Incolumes & in gaudium & Lætitiam amicorum, & confuſionem inimicorum noſtrorum. Negotia noſtra gratiâ Dei incepimus expedire, Die autem Dominicâ proximâ ante medium Quadrageſimæ Obſedimus caſtrum de Mileſen, quod Porcelinus de Manſy contra nos munierat, & nos die Martis ſequenti caſtrum illud vi cepimus, & ibi ſuſcepimus per Manus Fratris William *de Sancti Audoeno Literas Domini Papæ de facta Relaxatione interdicti in Anglia quas deſtinavimus V. P. N. P. Epiſcopo* Winton *Juſticiario noſtro; & vos rogamus attentiùs,* **quatenus ſecundum quod Idem Epiſcopus vobis ſcire**

ſcire faciat, *ad Interdictum illud Relaxandum in* præſtando Nobis ſubſidium efficaciter impendatis. *Ita quod Dilectionem veſtram merito commendare debeamus. Scituri quod præſtiteritis, &* quod nobis ad hoc feceritis, plene vobis reddi faciemus cum gratiarum Actione. *Teſte Meipſo apud Rupellam viii. Die Mart.*

No *Concilium*, or *Auxilium*.

A
Majori & Baronibus Lond.
Majori & probis hominibus Winton.
Probis hominibus Northampton.
Eodem modo ſcribitur Linc.
Ebor.
Oxon.
Glouc.

B
Eodem modo ſcribitur omnibus Burgis & Dominicis Regis.

C
Heref.
Exon.
Wigorn.
Cantebr. & Hunt.
Briſtol.
Norwic.
} *Dat. eadem.*

The King, To the Good Men of *Canterbury*, Greeting. Know ye, that We and Our Feudataries, or Soldiers, which We brought with Us into *Poicton*, are ſafe and ſound, And to the Joy of Our Friends, and Confuſion of Our Enemies, by the Grace of God We have entred upon Our Buſineſs. On Sunday next before Mid-Lent We beſieged the Caſtle of *Mileſen*, which *Porcelin de Manſy* had Fortified againſt Us, and on the Tueſday following We took it by force; And there We received it by the hands of the Brother of *William* of St. *Owen*: The Pope's Letters about Releaſing the Interdict in *England*, which We have ſent to Our Reverend Father *Peter* Biſhop of *Wincheſter*, Our Juſticiary. And We earneſtly require you, that according to what the ſame Biſhop ſhall give you to underſtand, you effectually apply your ſelves to give us a Subſidy, toward the Relaxation of the Interdict, ſo that We may worthily commend your Kindneſs, *knowing, that what you ſhall give, or lend, or do for Us, upon this occaſion,* ſhall be fully repaid, *with Thanks.* Witneſs Our Self at *Rochell*, the eighth day of *March*.

D

See the Kings Letter directed to *William* Earl Marſhall. *Rot. pat.* 15. *Johannis*, p. 2. m. 1. *Vobis ſcire faciat*, not *vobis Dicet*.

E

The King Wrote in the ſame manner.
To the Mayor and Barons of *London*.
To the Mayor and Good Men of *Wincheſter*.
To the Good Men of *Northampton*.
Lincoln.
York.
Oxford.
Glouceſter.

F

After

After the same manner the King Wrote to all Burghs which held of him in *Capite*.

Hereford
Exceſter
Worceſter
Cambridge, and *Huntington*
Briſtol
Norwich
} Of the ſame Date. A

The Author unhandſomly annexeth the Direction and latter part of the Record to the Burghs, to the Writ directed to the Barons, p. 159 & p. 14, 15, & 16. jumbling and mixing them together, as one Record.

This Record or Letter of the King to the Cities and Boroughs, our Author hath concealed, *and* (as I intimated before) *placeth under the firſt Record, or Letter directed to the Barons, Knights*, &c. *The laſt part of this Record, concerning the Cities and Boroughs, Eodem modo ſcribitur*, &c. *as before recited, and makes it part of that Record.* B

Theſe two Records are very much different one from the other, and differently worded. In the firſt the Barons, Knights, *&c.* were to do *Secundum quod* **Epiſcopus diceret**, according to what the Biſhop ſhould ſay, or ſpeak to them, and **concilium & auxilium apponere**, *to give Advice and Aid.* In the ſecond, to the Cities and Boroughs, C the Citizens and Burghers were to behave themſelves, *ſecundum quod Epiſcopus* **ſcire iſdem faceret, According to what the Biſhop ſhould give them to underſtand**, by ſending to them in all probability theſe Letters, and inforcing them by one of his own, to be Read in their Common Halls, or Burghmotes, to perſwade them, *ad Interdictum relaxandum* **efficaciter ſubſidium impendere, effectually** to yield their Aſſiſtance towards the Releaſing the Interdict, and ſo as the King ſayes, **quod præſtiteritis ad hoc plene vobis reddi faciemus,** D that what they contributed he would fully repay them. And this Letter to the Cities, *&c.* bears date the eighth of *March*, whereas the Letter or Record he uſes to ſerve his turn, to the Barons, *&c.* bears date *March* the ſixth, two days before, and ſo it is upon the Roll. *This Letter to the Cities and* **Burghs, which held of the King in Capite,** was only to **borrow Money** *of them towards the Charge of releaſing the Interdict.* Nor hath it any ways the Form of a Precept, or Writ of Summons to a Great Council or Parliament: *Nor is there in it the leaſt hint, or directions* given to the Cities or Boroughs **for ſending their Proxies and Repreſentatives** (as he calls them) *to any Great Council*: Nor doth it direct, that every individual Citizen or Burgeſs, or any at all, ſhould go to hear what the **Biſhop would ſpeak** to them; But he was **to let them know the Kings mind** by Meſſage, or Writ to them, to lend the King Money upon this particular occaſion: And yet he confidently affirms, he hath proved, that the Citizens and Burgeſſes had their Summons to Parliament 16 *Johannis*, by a **particular Writ** (meaning this) **diſtinct** from the Lords. F

P. 16. They were *ſubſidium impendere* only, not *Concilium & Auxilium apponere*, as 'tis ſaid in the Writ to the Barons.

P. 14.

P. 20.

I confeſs, the firſt Record carries with it much probability that *Peter* Biſhop of *Wincheſter*, had Commiſſion and Authority to call a Great Council, and that this very Letter was a direction to that purpoſe;

purpose; and a short Narrative concerning the Interdict will make it clear.

The Original of it, was a Quarrel between King *John* and the * Pope, about making an Archbishop of *Canterbury*; the King was very desirous to have *John de Grai* Bishop of *Norwich*, to be Archbishop. And gave the Monks a *Conge D'eslire*, who unanimously A choose him, *and the Prior declared him elected*; yet some of the Monks had clancularly chosen one **Reginald** their Sub-Prior, Archbishop, both Parties apply themselves to the **Pope**, to confirm their Elections; he cassates both, and commands the Monks of both Parties, by vertue of their Obedience, and under a Curse, to choose **Stephan Langton** a Priest, Cardinal, **Archbishop**, and they fearing to be Excommunicated, elected him, though against their Minds, whom the **Pope** Consecrated, and Writes to the B King to receive him to the Archbishoprick, being Canonically elected.

At which, being very angry, he charged the Monks with Treason, for chooſing his professed Enemy Archbishop. Who, though an English Man, was always educated at *Paris* amongst his Enemies; *and expelled them the Kingdom as Traytors, and writes to the* **Pope** *that he had subverted the Liberties of his Crown, and that therefore* C *he would Prohibit all People going to* **Rome**, *and from making Appeals thither, for that they should receive* **Justice** *and* **Judgment** *in all things at home.*

The **Bishops**, by vertue of their **Obedience** to the **Apostolick See**, by their Letters gave notice, they would **receive** and **obey Langton** as their Pastor; but the King not receding from his purpose, the whole Kingdom was put under an **Interdict**, *March* 23. 1208. The D **Bishops** of **London**, **Ely**, and **Worcester**, executing it at the **Popes** Command, and then they and the **Bishops** of **Bath** and **Hereford** went privately out of *England*.

The King incensed with these Proceedings, **Banished** the **Bishops**, put their **Bishopricks**, **Abbies**, and **Priories** under the Custody of Lay-men, Confiscated their Rents and Goods, caused their Barns and Granaries to be broken up, and their Corn to be sold. And also E the **Focariæ**, or **Domestick Concubines** of the **Clergy** to be seized, and taken into Custody, and by the Redemption of them, raised a great Sum of Money: After this, the **Pope**, by the advice of his **Brethren** the **Cardinals**, commanded the **Bishops** of **London**, **Ely**, and **Worcester**, by Name to **Excommunicate** the **King**; which Sentence, though the Bishops dare not execute, yet it was published among the People, much to the prejudice of the King.

F In the year 1211. **Pandulph**, a great Familiar of the **Pope**, and *Durand* a Templar, were sent from him to make Peace *inter* **Regnum** & **Sacerdotium**, between the King, **Temporal Barons**, and the **Bishops**, &c. or between the **Laity** and **Clergy**. The King freely granted, that the Archbishop and Monks of *Canterbury*, and all the proscribed Bishops, might return in quiet, and remain in their former Condition, but because the King would not

An Interdict is an Ecclesiastick Censure, Prohibiting the Administration of the Sacraments, the Burial of the Dead, and all or most Divine Offices, *Mat. Paris*, fol. 213. n. 30, 40.

* Pope *Innocent* 3d.

Two Arch-Bishops elected. *Mat. Paris*, fol. 222. n. 10, 40, 50.

The Pope Cassates both Elections, &c. Ibidem, & fol. 223. l. 3. Ibidem, n. 30, 40.

Ibidem, n. 50. Ibid. fol. 224. n. 20, 30. The King threatens to prohibit Appeals to *Rome*. Ibid. fol. 226. n. 10.

Ibid. n. 30. Ibid. n. 40. The Kingdom put under an Interdict. Ibid. n. 50.

Ibid. fol. 227. l. 1.

Ibid. fol. 228. n. 30. The Pope commands the Bishops of *London*, *Ely*, and *Worcester*, to Excommunicate the King by name. *Pandulph* sent to make Peace Ibid. fol. 230. n. 40, 50.

not make satisfaction to the Archbishop and Bishops, for their damages sustained, and their Goods confiscated; these Nuntios or Messengers returned without effecting any thing, and upon their Report to him, the **Pope admiring his Contumacy, Absolved all his Subjects, high** and **low, rich** and **poor from their Obedience and Subjection. And upon pain of Excommunication, commanded them all to avoid him at his Table, in his Councils, and in ordinary Discourse.** Such of the Great Men as adhered to the King, Bishops, Clergy, Temporal Barons, &c. **had the Character of Evil Counsellors,** part of whom *Paris* enumerates, *viz.* nine and twenty Earls, Barons, and Great Men, and three Bishops. A

Ibid. fol. 231. n. 10.
Ibidem.
The Pope Absolves the Kings Subjects from Obedience.
Ibid. n. 20.

The year following, *Anno* 1212. **Stephan Langton** Archbishop of *Canterbury*, the Bishops of *London* and *Ely went to* Rome, and informed the **Pope** of the many *Rebellions* and *Enormities King* John *was guilty of*, from the time of the **Interdict** to that day, indefatigably lifting up the hand of Rage and Cruelty against the Lord and **Holy Church.** And then humbly beseech the **Lord** the **Pope**, that he would take some care to relieve the **English Church** ready to perish; *and in a great fit of Sorrow for the Desolation of the Kingdom of* England, *by the advice of the Cardinals, Bishops, and other Wise men,* **Sententially defined,** *that* **John King** *of* England *should be* **deposed,** *and another more worthy appointed to succeed him, and to that purpose wrote to the most potent* **Philip** *King of* France *to execute this Sentence, and that if he would take the labor upon him to Dethrone the* **King** *of* **England,** *he should have remission of all his Sins, and he and his Successors possess that Kingdom by perpetual Right.* And further the **Pope** *wrote to the great Men, Soldiers, and Warriers of many Nations,* that they would take upon them the **Crusado** to that purpose, and follow the **King** of **France** as **General** *in this Expedition,* in vindicating the Injury done to the Universal Church: With this Message the Pope sent **Pandulphus,** and the **Archbishops** and **Bishops** aforesaid into *France,* from whom *Pandulph had private Instructions, that if the King would repent and make satisfaction to the Lord, and the* Roman *Church,* and all others concerned in that business, and **submit to a form of Peace drawn by the Pope,** then he might find favor from the Apostolick See. B C D

Ibid. fol. 232. n. 30.
Translated verbatim out of *Mat. Paris* Historiographer to *Hen.* 3. Son to King *John*, and a Monk of St. *Albans*, and a Favourer of these Practices of the Clergy.
Ibid. n. 40.
The Pope deposed King *John.*
And gave his Kingdom to the King of *France.*
Ibid. n. 50.

In the month of *January* next year, the **Archbishop** of *Canterbury*, Bishops of *London* and *Ely*, came from **Rome,** *and held a Council with the King of* France, *the French Bishops*, the *Laity* and *Clergy*, and promulgated the **Sentence** against King *John.* The **King** of **France** having raised a great Army to invade *England*; of which King *John* having notice, raised also a great Army, and expected his Arrival upon the Coast of *Kent* near *Dover.* **Pandulph** sent two Templars, to let the King know he desired to speak with him, by whom the King desired he would come to him with speed. They meet at *Dover*, when *Pandulph* tells him, what a vast Navy and Army the King of *France* had at the Mouth of the River *Sein* ready to set sail, and take Possession of his Kingdom, and doubted not but to make short work of it, having, as he boasted, **Charts** or **Assurances** from most of the Great Men of *England* of their Fidelity and Obedience to him. E F

Ibid. fol. 233. n. 20.
A. D. 1213.
A Council between the *English* Bishops and King of *France*, &c.
Ibid. n 30, 40.
Ibid. fol. 234. n. 30, 40.
Pandulph affrights King *John.*

Being

Being terrified and confounded with this News *King John* by the perswasion of **Pandulph** *submitted to the form of Peace as it was* drawn up by the **Pope**; in which he sware to stand to the Commands of the Pope, before his **Legat** or **Muncio**, in all things, for which he had been Excommunicated; and to make full Restitution and Recompence for all things which had been taken away from the Clergy or Laity by reason of the **Interdict** or present Quarrel.

Ibid. fol. 235. n. 10, 20. He submits to a form of Peace drawn by the Pope.

A

But this was not a sufficient Submission, he must become Homager to the **Pope**; *and his Offence was so great against God and his Mother the Holy Church, that nothing but granting his Kingdoms of* England *and* Ireland *to the* **Pope**, *and making them St.* Peter's *Patrimony, and becoming his* **Vassal** *could expiate it*; *And he must also declare that he did all this freely and voluntarily by the advice of his Barons, and not compelled by* **Fear**, *or the* **Force** *of the* **Interdict**. This done, **Pan-**
B **dulph** returns into *France* with 8000 *l.* part of the Restitution Money, for damages which was to be **Paid** to the **Arch-Bishop** and other **Bishops**, which were there, (as they pretended in Exile.)

Ibid. fol. 236. n. 40, 50, & 237. n. 10, 20, 30. There is the whole Grant and Form of King *John's* doing Homage to the Pope on the Eve of the *Ascension*. A. D. 1213. King *John* is forced to become the Popes Vassal. Ibid. f. 236. n. 10. f. 237. n. 40. Ibid. 238. n. 50.

King John now thought himself at ease, and cast about him how to be even with the *King* of *France*, and sets the *Earl* of *Flanders* to invade his Kingdom on the East part, while he passed over into *Poicton* with an Army, and entred *France* on the West part to recover
C what he had lost: to which purpose he assembles *a great Army at Portsmouth*; but when they came together, the **Great Men** and **Barons** *refused to follow him unless he were absolved from the Sentence of Excommunication*. The King much moved at this denial, sent the **Charts** or **Letters of Assurance** of 24 **Barons** to the *proscribed Bishops*, that they might return into *England*, without the least fear, and receive *recompence* for all *damages*, according to the form of Peace. They landed at *Dover* the 16th of *July*, and the
D 20th of the same Month the *King* was *absolved*, **Swearing Fealty** and **Obedience** to the **Pope**, &c.

Ibid. fol. 239. lin. 1. The Barons deny to follow the King unless he were Absolved, &c. A. D. 1213. The King and 24 Barons send the Bishops a safe Conduct to return. Ibid. lin. 6. n. 10, 20. The King is Absolved, and Swears Fealty and Obedience to the Pope. Ib. n. 30.

After this Absolution he made haste to *Portsmouth*, that he might pass into *Poicton*, committing the Government of the Kingdom to *Geofry Fitz-Peter*, and the *Bishop* of *Winchester*, with direction that they should *Order all the Affairs of the Nation with the Advice of the* **Arch-Bishop** *of* Canterbury. When the *King* came to *Portsmouth*,
E *his Great Men, Knights*, and such as held by *Military Tenure*, complained they had been there so long in expectation of their Voyage, that all their Money was spent; and unless he would furnish them out of his Treasury, they could not go with him, so that nothing was further done in this Expedition.

King John seeing this design frustrated, and himself deserted, *contrary to their Tenures* and *Duty*, he raised Force to reduce them to
F Obedience; the **Arch-Bishop** told him he violated his *Oath he took at his Absolution*, and that he could not make War against any one without the *Judgment* of his *Court*. And the King proceeding, he further told him, that unless he did quickly desist, he would **Anathematize** all those that should take Arms against any Man before the **Relaxation** of the **Interdict**. By which means he caused the King to give over prosecuting the *Barons* by Force, and left not the *King*

Ibid. n. 50.

Ibid. f. 240. l. 1.

A. D. 1213. Ib. & fol. 240. n. 10.

Ib. & f. 245. n. 20.

Ib f. 246 n 30.

until he had obtained a competent day for them to *answer* in his *Court*. But probably before that day came, or else to protect them from the *Execution* of the *Justice* of the *Kings Court*, viz. On the 25th of *August* that year, he caused a great *Meeting* of *Bishops*, *Abbats*, *Priors*, *Deans*, and *Barons* at *London*, where they enter into a Confederacy against the King, when they should have a fit opportunity, and grew so troublesome to him about their *pretended Liberties*, that he sent to the **Pope**, promising him **great Rewards** to Excommunicate them. A

Episcopi & Magnates Regni. Ibid. n. 50. A Treaty *inter Regnum & Sacerdotium*

Now 12 times as much.

But about next *Michaelmas* following, **Nicholas Bishop** of **Tusculum**, the **Popes Legat** came into *England*, *ut dissentiones inter* **Regnum** *&* **Sacerdotium**, *authoritate Apostolicâ reformaret*, that he might compose the dissentions between the *Temporal Nobility*, and *the Clergy*, by the *Apostolick Authority*, and there was a Meeting of the *Bishops* and Great Men of the *Kingdom*, before the *King* and *Cardinals* at *London*, *& tractatum ibidem per triduum inter* **Regnum** *&* **Sacerdotium** *de damnis*, &c. And there was a Treaty between the great Men and Bishops for three days, concerning the damages of the Bishops, *&c.* when the King offered 100000 Marks as a full satisfaction for them all; The *Legat* perswades the *Bishops* to accept this Offer; they suspect the *Legats favour* to the *King*, and had several other Meetings at **Reading** and **Malingford**, about the state of the Damages, and on the 12th of *December*, the proscribed Bishops received 15000 Marks more. At this Meeting were the **King**, the **Legat**, the **Arch-Bishop**, **Bishops**, **cum Magnatibus ac omnibus viris Religiosis, ad Interdicti negotium contingentibus**; The *Barons* or *Great Men* and all the *Religious* who were any ways concerned in the business of the Interdict; and every one brought in Writing a Catalogue of their **Ablata** or **Damages**; but by the Legats favour to the King, they were put off, and received no Money except the *Bishops* aforesaid. B C D

Ibid. fol. 247. n. 20.

A. D. 1214. pat. 15. *Johan.* m. 7. n. 19. *apud Reading. Paris ut supra.*

A. D. 1214. *Regni Johannis Regis* 15. Ib. f. 248 n. 20.

Notwithstanding this submission of the King and his giving away his Crown to the **Pope**, the Interdict still remained. So that the next year the *King* renewing his former design against the King of *France*, in the Feast of the Purification of the *Blessed Virgin*, sent Messengers to *Rome* for the *Relaxation* of the **Interdict**; and at the same time he, and his *Queen*, took Ship at *Portsmouth* with a *great Army*, and in a few days arrived at **Rochel**. Upon the 6th and 8th of *March* following these **Letters** to the **Barons**, &c. and to the **Cities** and **Burroughs** beforementioned were sent to them, to give them *notice* of his *Success*, and let them know the **Pope** had *consented* to the **Release** of the **Interdict**. E

The Matter of the Kings Letters to the Barons and Burghs. Ib. f. 249 n. 10.

Forty thousand Marks to be paid to the proscribed Bishops.

That to the **Cities** and **Burroughs** was to **borrow Money** towards the *Charge* of this *Affair*; and that to the **Barons**, &c. to ask their **advice** and **aid** in the effecting of it. In the mean time the **Pope** having heard *both Parties*, by their **Commissioners** or **Proctors** at *Rome*, and being satisfied it was much to the advantage of the Nation and good of *Souls*, he *wrote* to the **Bishop** of **Tusculum** his **Legat**, to take off the **Interdict**, upon condition the King should pay to the *proscribed Bishops* 40000 Marks, discounting what he had paid to them before. When the **Legat** had received his F

his *Authority* to *release* the **Interdict** the King was beyond Sea, and made the **Legat** and **William Marshall** his *Commissioners* to act for him. *Idem* **Legatus** *in urbe Londinensi apud Sanctum Paulum grande congregavit Concilium, ubi congregatis* **Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad hoc negotium Interdicti Spectantibus proposuit,** &c. That is, the same *Legat* convened a great *Council* at *London* in St. *Pauls*, where were the *Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and others concerned in the Business of the Interdict*, and propounded the *form* of *Restitution* the **Pope** had drawn up at *Rome*, and it being proved the *proscribed Bishops* had *Received* 27000 *Marks*, there rested only 13000 more to be paid to them; for which the *Bishop* of *Winchester*, and *Norwich* undertook to pay, and then the **Legat** on **St. Peters day** the 29 of *June released* the *Sentence* of the **Interdict** after it had continued *Six years, three months, and fourteen days.*

The Popes Legat by the Kings Authority calls a great Council.

Ibid n. 30, 40.

The Constituent parts of that great Council.

The Interdict released.

A. D. 1215. *16 John.*

The **Interdict** thus released, there came to the **Legat** an innumerable multitude of *Abbats, Priors, Templars, Hospitalers, Abbesses, Nuns, Clerks*, and Laics, requiring restitution for the *Damages* and *Injuries* they had received in the time of the **Interdict**; but the **Legat** *answered them all alike, that there was no mention of their Damages, and Injuries in the* **Popes** *Letters, and that he neither ought, or could, transgress the Bounds of his Authority*: and indeed most of these, the *Religious* especially, could require nothing, for the *King* had procured from most *Religious Houses*, Testimonials, that what he had from them, was freely given him. But when by the *Authority* of the **Pope** they thought they might have a compensation for them, then they called *those things* which they had *given* to the *King* **Ablata**, things taken from them; for at this time the **Pope** had by *Mandate* ordered Commissioners from him to *Tax* a *Sum* upon the *King* to be paid by 12000 *Marks* a year in recompence of the **Ablata** or *Goods taken* from the *Clergy*, &c. And the *King bound himself by Oath, and had also* **six Undertakers** *with him, W. E. Ferrers*, the *Earls* of *Chester, Winchester*, and *Arundel, William Bruer*, and *William Marshal*, for the performance of it.

Ibid. n. 50.

Ibid. fol. 233. n. 30. *Rex requirit Religiosos ut confirment quæ ei dederint tempore interdicti quæ nunc ablata vocantur.* Pat. *16. Joh.* par. 1. m. 10. Dors. and the acquittance for them is upon Record. Ibid. m. 8. Dors. n. 1. Ibid. m. 17. Dors. n. 1. 17 Junii Chart. *16 Joh.* m. 9. n. 67. in Andevagia.

This being the *History* of the **Interdict** by Reason whereof the *King* and *Kingdom* were reduced to great streights, the intention of calling this *Council* was for the raising of Money to satisfie the *Bishops* and *Clergy* for their pretended Damages, and likewise for a gratuity to the **Pope** (of whom *Mat. Paris* says, *he was ambitious above all Men, proud, and insatiably thirsty after Money, and prone to all wickedness, for Rewards either given or promised*) and **Pandulph** his **Legat**, that the **Interdict** might be taken off; which in those days were not small Sums, as may be concluded by 40000 Marks given to five Bishops only.

A Council called for Raising Money to clear the Interdict.

Fol. 245. n. 10.

And it shall be granted that the **first Record**, by which *King John* required *Advice* and *Aid* of the *Barons*, Knights, and all the **Feudataries** of all *England* towards the releasing of it, was a Summons to a great *Council*, yet it will not by this *Record* be made out, that the **Commons** were *Represented* in it, or *made* an *essential part* of it. For the **Milites & omnes fideles totius Angliæ**, to whom this Writ was directed, next after the **Barons**, were only the *Tenents in Capite*,

Barons Peers.

which were no real *Barons*, yet were often called to *Great Councils*, as **Barons Peers.** And such that were not actually *Barons*, there are many *Instances*, of their being called to sit amongst the *Lords* sometimes, and sometimes again omitted in several *Kings* Reigns after the **Commons** were a **third Estate**, and *Represented* as at this day. And that the **Milites & Fideles** mentioned in this Writ were only **Tenents in Capite**, 'tis very clear from the close of the *Writ* it self, where 'tis said, **Unicuique vestrum si fieri potest Literas nostras transmisissemus, sed ut negotium expediretur majori festinatione**, &c. We had sent our *Letters to every one of you, if it might have been done, for the Business it self, which requires a quick dispatch*, &c. A

Milites & Fideles were *Tenents in Capite* in this Record.

It was the ancient Custom, for our Kings to send Letters to all *Tenents in Capite*, to Summon them to Parliament.

It cannot be thought that the *King* ever wrote to all the *Knights* and *Feudataries* of *England* to meet in a *Great Council*, or if **Fideles** be taken in the largest and the most comprehensive sense that may be, for *Subjects* in *General*, no man can believe that ever any *King* did write **particular Letters** to every *individual Subject*, or *Freeholder* to come to, and send their *Representatives* to *Great Councils*. And therefore whatsoever the words of the *Writ* are, the design of it was to *convene*, **such** only as had *usually* in those times been called to *Great Councils*, which were the **Tenents in Capite** though no *Barons*, who only Represented themselves, and not the Commons, and were all summoned by particular Writs, and not sent or chosen by the People, and this *Appears* to be so by the irrefragable authority of *King John*'s **Magna Charta**, confirmed at **Runnemede** not full two years after, which was to be a *Law* for the *summoning* of *Great Councils*, or if our *Author* please, *Parliaments* in the subsequent times. The words are **Submoneri faciemus Archiepiscopos, Episcopos, Abbates, Comites, & Majores Barones Regni singillatim per Literas nostras, & preterea faciemus submoneri in generali per Vicecomites & Balivos nostros, omnes alios qui de nobis tenent in Capite ad certum diem, scilicet ad terminum quadraginta dierum ad minus & ad certum locum in omnibus literis submonitionis istius, causam submonitionis istius exponemus; & sic facta submonitione negotium procedat ad diem assignatum, secundum consilium eorum qui presentes fuerint, quambis non omnes submoniti venerint.** We will cause to be summoned, the *Arch-Bishops*, *Bishops*, *Abbats*, *Earls*, and the great *Barons* of the *Kingdom severally by our Letters*, and moreover we will cause to be *summoned in general*, by our *Sheriffs* and *Bayliffs*, all others which **hold** of us **in Capite** at a certain day, to wit, at the term of 40 days at least, and at a certain place. In all our Letters of Summons we shall declare the cause of the Summons, and so they being summoned, the Business shall proceed at the day assigned, according to the advice of such as are present, although all that were summoned shall not come. B C D E

Paris fol. 257. n. 20, 30.

The Law of Summons to great Councils or Parliaments.

Barones Capitales minores, sunt qui a Rege Tenent in Capite. Spel. Glossar. fol. 69. col. 2.

By this *Law* the way and manner of **Summons** to great *Councils* was *setled*, and made more easie than it was formerly; for by the former *Writ* the 15th *Johannis*, it appears to have been the custom for the *King* to write to every one of the *Milites & Fideles*, or **Tenents in Capite**, which were no formal **Barons**, *particularly* as he did to the *Barons*, and that the *Custom* was so, 'tis likewise *implyed* in this **establishment** of **Summons** for the future, that it should be F

be by particular *Writs* to every great *Baron*; and in General to all Tenents in Capite, by *Writs* directed to the *Kings Sheriffs* and *Bayliffs*. Hence 'tis evident, that only the Arch-Bishops, Bishops, Earls, Barons, and Tenents in Capite, were *usually* summoned to *Great Councils*. For if there had been any others to have been summoned, the like care would have been taken to settle the way of Summons to them as there was of these. And it is as evident from hence who were constituent parts of Great Councils and Parliaments in these and the following times until the 49th of *Henry* the *Third*, or 18th of *Ed.* 1.

The constituent parts of great Councils.

And we have the *practice* and *use* of this *Law* confirmed by a very clear *Record*, twenty years after, in the Reign of *Henry* the *Third*. *Rex Vicecom' Suſſex Salutem. Scias quod* Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites, Barones, & omnes alii, de regno noſtro Anglie qui de nobis tenent in capite, *ſpontanea voluntate ſua, & ſine conſuetudine, conceſſerunt nobis efficax auxilium, ad magna negotia noſtra expedienda. Unde proviſum eſt de conſilio eorum quod habeant de* ſingulis feodis Militum *& Ward. qui de nobis tenent in capite,* duas Marcas *ad prædictum auxilium, nobis faciendum, & unde providerint, reddere nobis unam medietatem ad feſtum Sancti Michaelis An. Regni noſtri* 19. *& aliam medietatem ad Paſcha Anno Regni noſtri* 20. *Ideo tibi præcipimus, quod ad Mandatum venerabilis Patris R. Ciceſtrienſis Epiſcopi Cancellarii noſtri, ſine dilatatione diſtringas omnes Milites & Libere Tenentes qui de eo tenent, per Servitium militare, in Balivâ tuâ ad reddendum ei de ſingulis feodis & Wardis duas Marcas ad prædictum auxilium nobis per manum ſuam reddendum in terminis prædictis.*

Cl. 19 *Hen.* 3. m. 8. Dorſ. The Ancient Members of Parliament.

An Aid given.

Two Marks of every Knights Fee.

Sic Scribitur pro aliis Epiſcopis, Abbatibus, Prioribus, & Magnatibus.

The King to the Sheriff of *Suſſex*, Greeting; Know ye that the *Arch-Biſhops, Biſhops, Abbats, Priors, Earls, Barons*, and all others of our Kingdom which hold of us in capite, have granted us an effectual Aid on their meer good Will, and without Cuſtom, of every Knights Fee two Marks, &c. Therefore We Command thee that according to the Command of *R. Biſhop* of *Chicheſter*, our Chancellor, you diſtrein all Knights and Free-Tenents which do hold of him by Military Service in thy County or Bayliwick to pay him for every Knights Fee, *&c.* two Marks to be paid by him to us.

To quicken their Tenents.

After the ſame manner it was written for other *Biſhops, Abbats, Priors*, and *Great Men*.

His

His Third Argument *Considered.*

Parliament Roll. The Pope demands Homage of King *John.* Rot. Parl. 40 *Ed.* 3. n. 7. And 1000 Marks *per an.*

IT is drawn from 40 *Ed.* 3. *n.* 7. 8. *King John* in the 14th of his Reign, had made himself and Crown tributary to the **Pope**, by *Homage* and the Payment of 1000 Marks by the year. The **Pope** in the 40th of *Edward* III. demands *Homage* of him, and a 1000 Marks *per Annum* for the *Kingdoms* of *England* and *Ireland*, and in case of non-performance, he threatens to make out Process against the *King* and *Kingdom*; whereupon the *King* asks advice of his *Parliament*, and the *Bishops* by themselves, and the *Dukes*, *Earls*, *Barons*, and *Great Men* by themselves answered, and said, that the said *King John*, nor no other could put himself, nor his *Realm*, nor his People in such subjection, **without the assent and accord of them.**

Ibid. n. 8.

And the Commons being demanded about the same thing, **Responderent en meisme la manere**, *answered in the same manner*; and in Number 8. **Les Prelates, Ducs, Countes, Barons, & Communs en cur ce plein deliberation Responderent & deseient D'une accord que le dit Roy Johan ne nul autre purra mettre luy ne son Royalm ne son people en tiel subjection saunz assent de eux.** *The Prelats, Dukes, Earls, Barons, and Commons in full deliberation upon this matter, answered, and said, with one accord, that the said* King John, *nor no other, could put himself nor his Realm, nor his People in such subjection, without their Assent.*

It was 153 years from the 14th of King *John* to the 40th of *Edward* III. Ibid. n. 7.

All that the **Resolution** of this **Parliament** in this Case proves, is that *King John* could not subject Himself, his *Realm* or *People*, without their Assent, but proves not, who they were that in such Cases at that time gave or denied their Assent, or how they did it, or whether 153 years before this Resolution, the Commons were represented by Knights, Citizens, and Burgesses, as at this day.

The **Prelats** and **Barons** gave their answer first, that such a subjection could not be made without their *Assent*, and then the **Commons** were asked what their thoughts were, and they answered in the same manner, and in the same words the **Barons** had done. And when they answer all together, they do it in the **same form of speech conceived first by the Barons** *without any consideration*, whether the **Commons** were the same Body of Men, at the time of executing the Chart of *King Johns* subjection, *&c.* as at that present.

A B C D E F

The

The Fourth Argument *Consider'd.*

FRom several *Records*, viz. 28. 32. 37. 42 and 48 *Hen.* 3. wherein the word **Parliament** is to be found, as likewise the words **Communitas** *populi*, and *Communitas Regni* are mentioned. As to the word **Parliament** I answer, as before, that it came in use here instead of **Magnum Concilium**, or **Commune Concilium** & **Colloquium**, about the middle of the Reign of *Henry* III. and in time became of more frequent use than those words, and signifies no more than **Colloquium**, a *Conference*; and doth no more point out the constituent Members of it, than that word did; And so the meaning of the **Parliamentum** is to be taken in the first *Record*, which is a *Writ* to the Sheriff of *Northampton-Shire*, that he should not permit any one in his **Bailiwicke**, to use any *Liberties* belonging to the *Crown*, unless they had first been used unto the time of the *Parliament* of **Runnemede**, *quod fuit inter Dominum Johannem Regem, Patrem nostrum & Barones suos Angliæ*, which was between the Lord *King John* and his *Barons* of *England*. What doth **Parliament** signifie here, but **Colloquium**? a Conference between the *King*, and his *Barons*, not a word of the **Commons** in the *Record*, nor can the word **Parliament** imply them, and a short touch upon the History of this Meeting, or Conference at **Runnemede**, puts it out of Question, that the **Commons** were not there represented as at this day, in our **Parliaments**.

P. 33.

Cl. 28 *Hen* 3. m. 12. Dors.

Angli autem dum Parliamentum pacificum habuissent cum Walensibus, &c. Par. fol. 978. n. 10. A short Narrative of the Meeting at *Runnemede*

The *Barons* having on the 24th of *May*, by the **invitation and contrivance** of the **rich Citizens**, possessed themselves of **London**, after they had placed their *own Guards* upon every Gate, and taken *security* of the *Citizens*, disposed of all things in the *City* as they pleased, they sent their *Letters* to the *Earls*, *Barons*, and *Knights* that really or seemingly adhered to the *King*, *exhorting them with threats that if they would not desert the Perjured King* (as they called him) *and faithfully close with them, in asserting their Liberties, they would proceed against them as publick Enemies, beat down their Castles, burn their Houses, and destroy their Warrens, Parks, and Hot-yards.* Upon this Command of the *Barons*, the greatest part of the *Noblemen*, and such as were with the *King*, left him, and went to *London*, and *confederated* with the *Barons*.

Par. fol. 254. n. 40, 50. The Barons invited by the *Londoners* to take possession of the City. Ibid. fol. 225. n. 10. 20. They Command all the Barons of *England* to come in to them. *Sup. hoc Baronum Mandatum.* Ibid. Most of them leave the King.

The *King* seeing himself deserted, and fearing they would seize his Castles, sent *William Earl* of *Pembroke*, and other faithful Messengers to them, to let them know he would grant them the *Laws*, and *Liberties* they desired; and commanded them to appoint a day and place for a meeting to prosecute this Affair. The **Barons** (*immenso gaudio recreati statuerunt Regi diem ut venirent contra eos ad* **Colloquium** *in pratum inter* **Stanes** *&* **Windleshores** *situm 15 die Junii*) being transported with great Joy appointed the King a day to meet them at a Conference in a *Meadow* between *Stanes* and *Windsor*, upon the 15th of *June*, and accordingly they met at the day and place prefixt.

Ibid. n. 30.

P. 33. Ibid. n. 50.

This

This was the **Parliament** at **Runnemede** whither the *Barons* marched with their Army, and the *King* perceiving his Forces to be inferior to the Forces of the *Barons*, granted the *Laws* and *Liberties* as they there follow in *King John*'s **Magna Charta.** I think no body will say, that the **Commons** were represented in this Meeting, as at this day in **Parliament:** Nor indeed was it possible for any *Representatives* of the **Commons** to be there, for there was but One and Twenty days, between the 24th of *May*, *when* the *Barons* possessed themselves of the City of *London*, and the time of this *Conference*; In which One and Twenty days the *Barons* first *secured* the *City*, then sent their *Commands* to other *Barons* through *England* to come in, *&c.* who, after they received them, repaired to them at *London*, and then, when the King see himself deserted, he sent *Messengers* to them, and they appointed the 15th of *June* for the day of Meeting, **all these Transactions** passed one after another in this **short space** of time, so that it could no ways be, that **Writs** should issue, and the People **Elect** their **Representatives**, in so small time, as must needs **intervene**, the *Kings Message* to them, to appoint a time and Place, and the time appointed. A B

Cl. 32 *Hen.* 3. m. 13. Dors.

The Test of this Writ is 16 *Feb. apud Westm.* p. 34.

Next he tells us of the *Outlawry* against *William de Hastingeot*, which was reversed, because it was not done according to the *Law* and *Custom* of the *Kingdom* (these words he hath left out) **coram Rege & toto Parliamento**, before the King and the whole Parliament. I believe he had better have let alone, harping upon the word *Parliament* in this *Record*, for 'tis a clear and unanswerable Argument against him, that the **Barons** in this Meeting were the **whole Parliament:** for he can never prove the **Commons** medled in such **Judgments**, or **Matters** of **Law**, or that it did belong to them, or ever pretended to it, in our **Ancient Parliaments.** C

The Barons the whole Parliament.

And that the *Barons* were then the *Parliament*, there is another Record in the same year, of which this Gentleman hath given a scrap in his Margin, where the word **Parliament** is mentioned, and the Persons whereof it consisted, who were **Barons** only. The **Pope** had granted a large *Boon* to the *Church* of *Canterbury*, of one years profit of all the *Livings* in the *Patronage* of *Lay-men* when they should become void; The King writes to the *Bishop* of *Norwich*, that he should not permit them to be levied, or force the *Incumbents* to pay them, in this form. *Rex. W. Norwicens. Episcopo salutem, quia* **Magnates** *Terræ Nostræ noluerint in ultimo* **Parliamento** *nostro quod fuit apud London*, &c. *vobis mandamus prohibentes districtè ne fructus exigatis prædictas, vel Ecclesiarum Rectores, ad conferendum dictum subsidium compelletis, donec cum prædictis magnatibus, sine quibus, super hoc nihil volumus attemptare,* **Colloquium** *habuerimus teratum. Teste Rege apud Sanctum Edmundum, 9 Mart.* The King to *William* Bishop of *Norwich* Greeting; Because the Great Men of our Land would not in our last **Parliament** at *London*, &c. Therefore We Command, and streightly forbid, that you do not exact the said Profits, nor compel the *Rectors* of Churches to pay them, until We have had another **Conference** or **Parliament** with the *Great Men* aforesaid, without whom we will attempt nothing in this matter. D E F

Ibid. m. 12. Dors.

Not a word of the Commons.

In

In this Record we find the old word **Colloquium**, and the new word **Parliamentum**, expressive of one another, and of the same thing, and that the word **Parliament** did no more imply the **Commons** to be a constituent part of it, than **Colloquium** did. It is further to be noted concerning this Writ to the Bishop of *Norwich*, that the Test of it is but two and twenty days after the other, to the Sheriff of *Northamptonshire*, about *Hastingcots* Outlawry, A from whence 'tis evident, 'twas the same **Parliament**, or **Colloquium** *mentioned* in both.

Colloquium & Parliamentum the same.

The next *Record* he useth to inforce this Argument is *Pat.* 37 *Hen.* 3. *m.* 13. which may be called an *Exemplification*, *Promulgation*, or *Declaration* of the *Excommunication*, or *Sentence* pronounced against the infringers of **Magna Charta**, on the third of *May* in **Westminster-Hall**, 37 *Hen.* 3. 1253. under the *Seals* of the *King* B and other *Great Men*. All our Author cites in this Argument, is part of the latter end, and that in two small parcels, *Rex Magnates & Communitas Populi protestantur Publicè* (against infringers of *Magna Charta*) *Contra consuetudines Regni antiquas & usitatas; in cujus rei testimonium*, and then tells who set their Seals to it.

Pat. 37 *Hen.* 3. *m.* 13. The Date of this Record is the 13 *May*, 37 *Hen.* 3. *apud Westm.* The whole Record is printed in his Appendix, *p.* 164.

The whole latter part of it, which he hath mangled and divided, runs thus, *Dominus Rex & prædicti* **Magnates** *omnes &* **Communitas Populi protestantur** *publicè in præsentia venerabilium Patrum B. Dei Gratia Cant. Archiepiscopi totius Angliæ Primat. nec non & Episcoporum omnium in eodem* **Colloquio** *existentium*, concerning any C thing to be added or altered in **Magna-Charta**, *quod in eâ nunquam consenserunt nec consentiunt sed de plano eis contradicunt. Præterea præfatus* **Dominus Rex** *in prolatione præfatæ sententiæ omnes Libertates & consuetudines regni sui antiquas & usitatas &* **dignitates & jura corone sue** *ore proprio specialiter sibi & Regno suo salvavit &* D *excepit. In cujus rei memoriam*, &c.

Colloquium for *Parliamentum.*

King *Henry* in the Confirmation of *Magna Charta*, specially saveth and excepteth the Rights of the Crown.

To understand who were the **Community** of the People meant in this *Record*, we must have *recourse* again to *Mat. Paris*, who in this very year writes, that *In Quindenâ Paschæ Mænse Aprili*, **tota** *edicto Regio convocata* **Anglie Nobilitas** *Convenit Londini de arduis Regni negotiis simul cum Rege tractatura, extiterunt igitur ibidem cum Comitibus & Baronibus Quamplurimis, Archiepiscopus Cantuariensis Bo-* E *nifacius, Episcopi Angliæ fere omnes* (only the Arch-Bishop of *York*, and the Bishop of *Chester* were absent by reason of sickness.) The *King* acquaints them with his purpose to go and assist the *Christians* in the *Holy Land*, and requires a great Sum of Money, they fall into Contests about granting it, and the **Bishops** told the *King*, the **Liberties** of the Church were *violated*, and if he would reform those *Errors*, according to the *Tenor* of the **Great Charter** of **Liberties**, they would strain hard to serve him, which he pro- F mised them to do. Then after may Disputes in Fifteen days time, *Concessa est Regi decima pars proventuum ab Ecclesiâ per triennium, & à* **Militibus Scutagium** *illo anno, scilicet ad scutum tres Marcæ.*

Communitas Populi, 37 *H.* 3. Who? Fol. 865. n. 40.

Ibidem, n. 50.

Ibidem, fol. 866. lin. 1.

Ibidem, n. 20.

Notwithstanding this he summoned, *Milites sibi servitium Militare debentes*, that they should be ready with Horse and Arms at *Portsmouth*, eight days after *Trinity*, to pass beyond Sea. *Paris. fol.* 868. *n.* 10. Ibidem, n. 30. 40, 50. No Commons. See the Form of Excommunication, n. 40, 50.

The Constituent parts of the *Colloquium*, 37 *H.* 3. when *Magna Charta* was Confirmed.

The Church granted the Tenth of their Revenue for three years, and the *Knights* or *Nobility* granted for that year *Scutage*, to wit three Marks of every *Scutum*, or *Knights Fee*. And then the *Arch-Bishop* and *Bishops*, in their *Pontificalibus*, and *Light Candles in their hands*, in the presence, and with the *Assent* of the *King*, *Richard Earl* of *Cornwal* his Brother, and several Earls there named, *& aliorum* **Optimatum** *Regni Angliæ*, and other *Chief Men* of the *Kingdom* of *England*, on the third of *May*, Excommunicated and Cursed, all those that from thenceforward should deprive the *Church* of her *Right*, and all those that should *change*, *alter*, or *diminish* the **Liberties** of the *Church*, and ancient *Customs* of the *Kingdom*, especially those granted in the Charter of the *Common Liberties* of *England*, and *Charter* of the *Forest* by the *King* of *England*. **Archiepiscopis, Episcopis, & ceteris Angliæ Prelatis, Comitibus Baronibus, Militibus & Libere Tenentibus**, &c. To the *Arch-Bishops*, *Bishops*, *and other Prelats of England*, *to the Earls*, *Barons*, *Knights*, *and Free Tenants*, or **Tenants** in **Military**, or **Knights-Service**, for they only were such as paid *Scutage*, which was at this time a kind of Composition with the King, for the confirming **Magna Charta**, and was never **charged** but upon **Knights Fees**, and these were such as held perhaps one narrow or scant *Knights Fee* only, or *some part* of a *Knights Fee*, as an half, 3d, 4th, 6th, 8th part, *&c.* who all paid a *proportionable* share of *Scutage* to the *Great Lords*, or *Tenents* in *Capite*, for the Lands they held of them in **Military Service**, which was paid first to the *Great Lords*, and by them paid to the *King*.

Observations from the preceding Record.

I shall observe from this Relation given by *Mat. Paris* of the **Colloquium**, or Conference *mentioned* in this *Record*, that it was **all the Nobility** of **England** met at *London*, to Treat with the *King*, and were *summoned* by his *Edict* or *Writ*; that particularly there were all the *Bishops* of *England*, with very many *Earls* and *Barons* at this Meeting; and lastly, that all the *Temporal Nobility*, or the **tota Anglie Nobilitas** in the *Grant* of *Scutage* are called, **Milites, Knights**, Military Knights.

The Great Barons sometimes have been Summoned to Parliament, with the Addition of Chivalier.

Milites & Chivalers proper and usual for Barons. *Seld. Tit. hon. fol.* 574, 575.

And from thence I collect, that besides the **Barones Majores**, that came to this Great *Council*, or *Parliament*, there were also the **Tenents in Capite**, according to the *direction* and *Law* for **Summons** in *King Johns* **Charter**, who were comprehended in the words, **tota Nobilitas, & Milites**; And that other *Tenents* that held of the **Tenents** in **Capite** by **Knights Service**, *were bound by their Acts*. For they all knew how many **Knights Fees** they held of the *King* in **Capite**, and if they had given away any to others, they *held* of them, as they did of the *Crown*, and answered a *proportionable Rate* toward this *Tax*, for the *Fees*, quantities, or parts of *Fees*, they held of them, about which there could be no mistake, after the **Scutage** was ascertain'd.

In so *great* an *Assembly* where all the *Nobility* of *England* were called together by the *Kings Writ*, and upon so great an *Occasion* and *Solemnity*, as confirming the **Great Charter** of **Liberties**, after such an *extraordinary manner*, it cannot be doubted, but besides the *Barons*, **all the Tenents in Capite**, both *great* and *small*, which were then

then very *Numerous*, were present; or at least most of them, from whence it is not difficult to tell our Author, who the **Communitas** were, after the **Prelats**, **Barons**, and **Magnates**; they were no other then the **small Tenents in Capite**, who were all *summoned* by one General Writ, not *chosen*, and *sent* by the *People*, but *summoned* as the *great Barons*, though in *general*, as hath been before shewn, from King *Johns* **Magna Charta**. Again, *Dominus Rex & prædicti* **Magnates** *omnes*, & **Communitas** *Populi*, &c. that is the Lord the King, and all the foresaid *Great Men*, and *Community* of the *People* (to wit) the *Community* of the *Laity*, or the *Laity* in *general*, do protest publickly in the presence of the *venerable Fathers*, *B.* **Arch-Bishop** of *Canterbury*, and all the *Bishops* there present, *&c.* For here the *King*, *Great Men*, and **Community** of the *People*, or *Laity*, made their Protestation before the Bishops, and Clergy, and as I have proved before, the *Clergy* and *Laity* are often expressed, and distinguished, by **Clerus** and **Populus**. So that **Communitas populi** doth not here signifie, the **Community** of the **Commons**, but the **Community** or *body* of **Lait's** there present.

The *Communitas populi* were Tenents in Capite, both great and small. Or the Community of the Laity. In that Book which is called the Ancient *Modus Tenendi Parl.* the Title of the third Chapter, which is concerning Summons, is *de Clero*, or *Clericis*; and the Title of the Fourth Chapter, concerning the same matter, is *de Laicis*, which treats of the Barons Summons. Communitas Populi, What. *Paris*, Fol.

And in this sense **Clerus** and **Populus** are used in the 8th of this King, *Anno Dom.* 1224. *Convenerunt ad* **Colloquium** *in Octavis Sanctæ Trinitatis apud* **Northampton**, *Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis, de Regni negotiis tractaturi*; Sitting this *Parliament*, a Complaint was made to the King, that one of his *Justices* in the Circuit was carried Prisoner to *Bedford-Castle*; At which the *King* being very angry, *Quæsivit Concilium à* **Clero** *simul &* **Populo**: So in the Chronicle of *Gervase* of *Canterbury*, *Dux Henricus, una cum Rege Stephano, & quibusdam optimatibus Angliæ, venit Cantuariam, ubi à Conventu Christi, solemni processione, cum innumera Cleri & Populi multitudine susceptus est.* Duke *Henry*, (afterwards King *Henry* II.) with King *Stephen*, and certain Great Men of *England* came to *Canterbury*, where they were received by the *Monks*, or *Convent* of Christ in Procession, and an innumerable multitude of the Clergy and People; And in another place in *Mat. Paris*, upon occasion of the Popes writing to King *Henry* II. for Relief of the Holy Land, 'tis said, *Convocato Clero Regni, ac populo, Convenerunt Lundoniis apud Fontem Clericorum decimo Kalendas Aprilis, Rex cum universa Nobilitate Regni. Ubi dictus Rex, &c.* The Clergy and People, being called together or summoned, they met on the Twenty third of *March* at *London*, in the * Monastery at *Clerken-Well*, the *King* with the whole *Nobility* of the Kingdom. In the Relation of the *Coronation* of *King Edward* II. we meet with these passages.

Col. 1375. l. 3. A. D. 1153.

Clerus & Populus, Clergy and Laity in general.

F. 143 lin. 5. A. D. 1185.

Populus, the Laity, or Lay Nobility only.

* Either in the Monastery of St. *John's* of *Jerusalem*, (now called corruptly St. *Jones's*) or the other Monastery there on the North-West side of the sometime Green.

Sire volez vous Graunter & Garder, & per vostre serment Confermer au people de Angleterre, les leys & les Custumes á Eux grantees par le aunciens Roys Dengleterre vous predecessors Droiturs & Devotz á Dieu, & nomement les loys, les Custumes, & les Franchisees graunte au Clergie, & au people, par le glorieus Roi Edward vostre predecessor. Respons. **Jeo les Grant & Promette.** *Sire Garderez vous á Dieu & St. Eglise, & au Clergie & au people, pacs & accord en Dieu intirement solonc vostre poer.* Respons. **Jeo le Garderai.** Sir, Will you grant, keep, and by your Oath confirm to the People of *England*, the *Laws* and the

Rot. Claus. 1. *Ed.* 2. *m.* 10. *Dors.*

Customs to them *granted* by the *ancient Kings* of *England* your Predecessors just and devout towards God, and namely the *Laws*, the *Customs*, and the *Franchises* granted to the *Clergy* and *People*, by the glorious *King Edward* your Predecessor; His answer was, I *grant* and *promise*, or *confirm*. Sir, Will you keep or preserve to God, and Holy Church, and to the *Clergy* and *People* peace and accord in God intirely according to your power; His answer was, I *will keep* and *preserve them*. What can here be meant by *Clerus* and *Populus*, but the *Clergy* and *Laity*? And therefore it is said in the Close of this Record, That *in veritatis Testimonium, tam Dominus Rex, quam predicti Comites, ad instantiam aliorum Magnatum, & populi, presenti scripto sigilla sua apposuerunt*; For the *Testimony* of the Truth of this Transaction, as well the Lord the King, as the aforesaid *Earls*, at the Instance and Request of other great Men, and the *Laity*, or *Community* of the Laity, put their Seals to the present Writing.

See more of the words *Clerus* and *Populus* in the Gloss.

A

B

There are only the words **Comites** and **Magnates** used in this *Record*, and why *Magnates* should be so comprehensive as 'tis there used, to include all *Earls*, *Barons*, and *great Tenents in Capite* in this very *Colloquium*, I see no great reason for it, but do think, without straining of the words, or putting a harsh sense upon them, the **Communitas populi** may be here understood of the **body** of the *Tenents in Capite*, that were no *Barons*, as contra-distinguished to the *Earls* and *great Men* of the highest *Order*; and besides that, they were all called by one General, and Common Writ. These words were used to denote the **great appearance** of them which were the *inferior sort* of the *Laity*, at this great Solemnity for asserting the *Common Liberties*, which they claimed; for the far greatest part of **Magna Charta**, concerned *Tenents in Military Service* only, and the **Liberties**, which our Ancient Historians tell were so mightily contended for, if seriously considered, were mainly the **Liberties** of *Holy Church*, by which, in most things, she pretended to be free from *Subjection* to a *Temporal Prince*; and the relaxation of the *Original Rigor* upon which *Knights*, or *Military Fees* were first given by the *Lords*, and accepted by the *Tenents*.

C

The greatest part of the Liberties claimed in *Magna Charta*, concerned Military Men. Or the Church.

D

See Glossar. for *Magnates*.

See concerning the Creations of Earls, Barons, concerning Magnates, Bannerets, Knights, Peers, &c. *Elsyngs modus tenendi Parliamentum*, from p. 27. to 46. *Autres Grands* Barons, Peers.

I know that *Magnates* very often imports, and is used for the great *Tenents in Capite*, that were no *Barons*, and perhaps the least *Tenents in Capite*; likewise for Knights also, and Bannerets, which though distinguished from the *great Barons* (who were ever created by some Ceremony or other, as all Orders of Nobility have been) yet had great Estates, and were possessed of, and held many *Knights Fees in Capite*, or were *Feudal Officers*, and therefore were summoned, as Peers, to the *great Barons*: And these, after the Commons were represented as at this day, in the times of *Edw.* 3. and *Rich.* 2. are in Parliament Rolls called **Autres Grantz**, or **Grandes**, **Autres Nobles**; which were **Barons-Peers**, called by the *Kings Writ* into the *Lords House* at pleasure, and omitted at pleasure.

E

F

A Form of Peace between the King and Barons, after the Battle of *Lewes*.

The next Record he produceth is stiled, a **Form** of **Peace** between the *King* and *Barons*, which was drawn up by **Simon Montfort**, Earl of *Leicester*, General of the *Army* of the *Barons*, and his *Complices*, when **Henry** the Third was their Prisoner, and **Edward** the First his Son, then **Prince**, was a *Hostage*, and *Prisoner* likewise,

likewise, on behalf of his Father, in order to an *Agreement* and *Peace* to be made between his *Father* and *Barons*. The *Battle* of **Lewes**, where King *Henry* was taken Prisoner, was Fought, *May* 19th. this year 1264. And this *Record* is dated at *London*, in **June** following after Midsummer-day, and the sum of it is, *That* **Montfort** *and his Faction should name three Men, who should have Authority and* **power** *from the* **King** *to choose and name* **Nine Counsellors**, A *of which, three should always be with the King; and he, by their* **Advice**, *should* **Order** *and* **dispose** *of the Government of his* **Castles** *and* **Forts**, *and all other* **business** *of the Kingdom, and also by their* **Advice** *should choose his Judges,* **Chancellor**, **Treasurer**, *and other* **Officers**, *great and small, either of the* **Court**, *or* **Kingdom**; *and when any of these were to be removed, or others chosen, it was to be done by the Advice of the first three* **Electors**. *And these three were always to be supplied by the Barons during King* Henry's *Reign, and such time* B *of his Son* **Edwards** *Reign, when he should come to be King, as was then to be agreed on.* And this **Agreement** or Form of Peace (as they called their own **Impositions** upon *King Henry:*) was to remain good, until certain *short Articles* made at **Lewes** were drawn up into Form, and Ratified. A Brief Narrative of some Accidents before, in, and after that Battle, will make this Record be better understood.

The Battle of *Lewes, May* 19. 1264. 48 of *Hen* 3. *Knighton col.* 2450. *n.* 60. The unreasonable Impositions of *Montfort* and his Faction upon the King.

C The year before the differences between the *King* and *Barons* about the *Provisions* made at *Oxford*, were by mutual consent, referred to the King of *France*, who gave Sentence for the King against the Barons, to which *Simon* **Montfort** and others would not submit; Whereupon many of the *Great Men* left *Montfort*; who was in those days a *Godly Man, a mighty seeming Saint, and wonderful Favourite of the Clergy and Religious:* from this time, until after the Battle of *Lewes*, his strength rather decreased than increased: **Prince** D **Edward** in this *Battle* ingaged the *Londoners*, and beating them, made too great a pursuit, so that before his return, the other part of the Kings Army was routed, and his Father taken Prisoner, and put into the *Priory* of *Lewes*; the Castle making a stout defence against the *Barons*, at which the Prince took courage, rallied his Forces, and designed to try the fortune of another Battle, which *Montfort* and his Confederates perceiving, they sent *Mediators* for *Peace*, promising, that on the next day they would effectually Treat E of Peace, which was done, by the Mediation and Intercourse of the *Friers-Preachers*, and *Minors*, between both Parties, and things came to this issue; that on the morrow **Prince Edward**, and his **Cousin Henry** yielded themselves to *Simon Montfort*, and became **Hostages** for their Fathers, Kings of *England*, and *Almain*, upon hopes of Peace, and a deliberate Treaty about such things as might be found expedient for the quiet and safety of the Nation.

Mat. Paris, fol. 993. *n.* 10.

Ibidem, n. 20. Ibidem, 995. n. 10. fol. 998. n. 30. Fol. 994. n. 10. Prince *Edward* lost the Battle of *Lewes* by pursuing the *Londoners* too far. Ib. fol. 996. n. 10.

Ibid. This is the Mise, or short form of Peace mentioned in the Preamble of this Record. Ibid. n. 40.

F But when **Montfort** had **King Henry**, his **Brother Richard King** of the *Romans*, their Sons, *Edward* and *Henry*, and many others of the *Nobility Prisoners*, and carrying the *King* and *Prince* about with him, until he had taken in all the *strong Castles* and *Forts* of the *Land*, he grew more averse, and difficult to treat of the Form of *Peace* as it had been agreed at *Lewes*, making *King Richard* Prisoner in the *Tower*, and sending *Prince Edward* and his

Montfort, when he had the King and Prince Prisoners, grew insolent.

his *Cousin Henry* to *Dover Castle,* keeping *Henry* with him where-ever he went.

In this condition was the *King* when *Montfort* and his Confederates, imposed upon him these unreasonable terms, calling them a *Form* of *Peace*, which was made, as 'tis there said, *de consensu, voluntate, & præcepto Domini Regis, nec non Prælatorum Baronum, ac etiam Communitatis tunc ibidem præsentium.* The **Prelats** and **Barons** were such as sided with *Montfort*, and the **Community**, was the *Body* of the *Tenents in Capite* of the Faction there present; and without doubt others not of the Faction, who through fear came in, and complied, when the Rebels had the King, and his Son in their power; and the Witnesses to this Form of Peace, **Richard Bishop** of **Lincoln**, **Hugh Bishop** of **Ely**, **Roger Earl** of **Norfolk**, and **Marshal** of *England*, **Robert** *de* **Ver** *Earl of Oxford*, **Humfry** *de* **Bohun**, **William** *de* **Montchensy**, and the **Mayor** of **London**, were all the Kings * great Enemies.

And whereas 'tis said these things were done in a Parliament at *London, Mense Junii An. Dom.* 1264. it could not be so, in our modern use, and understanding of the word; for as we have seen above, the *King* and *Prince* were both Prisoners, and his *Brother Richard Earl* of *Cornwal*, and King of *Almain*, and many others of the Nobility were Prisoners likewise. **Roger Mortimer** and several of the Nobility and great Men with him were in *Arms* against *Montfort*, and without doubt none of the **Kings Party**, or Friends were there, so that it must be a *Parliament* in the sense and general use of the word at that time. That is, a *great Assembly*, Convention, or Meeting of the Faction, and such as by threats and fear, were forced into a Compliance with them, and prudential moderate Men (as they call themselves) who stand still, while the Faction is uppermost, and then most commonly go along with them.

Such was that at **Oxford** when those deposing provisions were made (called *Provisiones Oxonienses*) in the 42 of this King *Henry* III. 1258. *Instante festo Sancti Barnabæ Apostoli, Magnates & Nobiles Terræ ad* **Parliamentum** *quod* **Oxonie** *tenendum fuit properabant, præceperuntque omnibus qui eisdem servitium militare debuerant, quatenus cum ipsis venirent parati veluti corpora sua contra Hostiles insultus defensuri, quod & fecerunt palliantes talem adventum, eò quod in* **Walliam** *contra hostes regis viderentur collatis viribus profecturi.* The Feast of St. *Bartholomew* being at hand, the *Great Men* and *Nobles* of the Land made haste to the **Parliament** then to be holden at **Oxford**, and they commanded all which held of them in Knights or Military Service to go so prepared with them; as they were to defend their Bodies against the Attempts of their Enemies; which they did, disguising or covering their coming in such a manner, for that they pretended, or would seem to march with their joint Forces into *Wales*, against the Kings Enemies.

And that this *Record* is agreeable to the History we have used, and the very same our Author hath cited, and that which is here laid open, will appear from the preamble and date of it.

Hæc

Towards the latter end of the same Record.

* For *Bigod* see *Pat.* 48 *H.* 3. m. 9. and for him, and *Bohun. Mat. Par.* fol. 969. lin. 29. and fol. 995. lin. 436. for *Marchensey*. For *Robert de Ver. Knighton.* col. 2449. lin. 35. for the two Bishops. *Godw. de præsul.* for the Mayor and Citizens of *Lond.* *Paris* fol. 999. l. 4. *Pat.* 48 *Hen.* 3. m. 6. *Dors. in fine.*

That Convention to Parliament. *Paris* fol. 996. n. 50. *Paris* fol. 970. n. 40.

Ibid.

No such Commons or Freeholders as at this day.

It was Prorogued to *Oxford* from the Sunday after *Ascension-day* unto *Barnabas day*, *Paris* fol. 968. lin. 8. lin. 27.

Hæc est forma pacis, a Domino Rege & Domino Edwardo filio suo, Prælatis & Proceribus omnibus cum Communitate totâ Regni Angliæ communiter & concorditer approbata. Videlicet quod quædam Ordinatio facta in Parliamento London habito circa festum Nativitatis Johannis Baptistæ proximè præterit. pro pace Regni conservandâ; quousque pax inter dictum Dominum Regem & Barones apud Lewes *per formam cujusdem Misæ prælocutâ Compleretur, duratura omnibus diebus prædicti Domini Regis & etiam temporibus Domini Edwardi, postquam in Regem fuerit assumptus, usque ad terminum quem ex nunc duxerit Moderand. firma maneat, stabilis & inconcussa, Dicta autem Ordinatio tale est.*

Pat. 48 Hen. 3. m. 6. Dors. The Preamble to the form of Peace.

This is the *Form* of *Peace* generally and unanimously approved by the *Lord* the *King*, and the Lord *Edward* his Son, the *Prelats* and all the *Noblemen*, with the whole *Community* of the *Kingdom* of *England*; That is to say, that a certain Ordinance made in the Parliament held at *London* about the Feast of the Nativity of *John Baptist* last past, for conserving the Peace of the Kingdom, until a Peace between the said Lord the King and the *Barons* treated of at **Lewes**, according to the form of a **Mise** then made, should be compleated; to endure all the days of the aforesaid *King*, and also so long time of the *Lord Edward*, after he should be *King*, as should then be appointed. The said *Ordinance* is such or after this manner; of which there hath been an abstract given above. *Actum in Parliamento London mense Junii An. Dom.* 1264. done in the Parliament at *London* in the Month of *June*, in the year of our Lord, 1264. which must be at the latter end of *June* after *Midsummer day.*

The last *Record* he useth in this Argument is about the same Form of Peace mentioned in the former. The words he insists upon are these. *Cum super præteritis Guerrarum discriminibus in Regno Angliæ Subortis, quædam Ordinatio seu forma pacis de nostro Prælatorum* * *Baronum & totius Communitatis Regni prædicti unanimi voluntate & assensu*, &c.

Pat. 48 *Hen.* 3. m. 4. Dors. P. 37.

* Here in this place he hath put in the word *Baronum*, to serve his purpose; 'tis not in the Record.

So much of this *Record* as relates to the present controversie, when fairly reported and compared with some passages in History not many years before (will in my judgment) sufficiently inform us what the **Communitas** was, and who were to be understood by it, in this, and the other Records.

Rex Angliæ S. de Monteforti Com. Leycestr' Gilbertus de Clare Com. Glouc. & Hertford. Johannes fil. Johannis. Johannes de Burgo senior, Willielmus de Monte-canisio, Henr. de Hastings, Gilbertus de Gant & cæteri Barones & Magnates Angliæ; Universis Christi fidelibus ad quos præsentes Literæ pervenerint, Salutem in Domino, Cum super præteritis Guerrarum discriminibus in Regno Angliæ subortis, quædam Ordinatio seu forma pacis, de nostro Prælatorum * *& totius* communitatis *Regni prædicti unanimi voluntate & assensu provida deliberatione inita fuit*, &c. *In cujus rei Testimonium huic scripto nos Rex Angliæ, Com. Leicestr. Johannes, Johannes, Willielmus, Henricus & Gilbertus pro nobis & cæteris Baronibus &* Communitate *Regni Angliæ sigilla nostra apposuimus. Dat. apud Cantuariam die Jovis proxima post festum nativitatis B. Virginis An. Dom.* 1264.

* Note above how our Author hath added in this place the word *Baronum*, which is not in the Record. The Feast is *Septem.* 8.

The

John Fitz- &c. all Barons.

The King of *England*, *S. de Monfort Earl* of *Leyceſter*, *Gilbert de Clare Earl* of *Glouceſter*, and *Hertford*, *John Fitz-John*, *John de Burgh Senior*, *William Montchenſy*, *Hen. de Haſtings*, *Gilbert de Gant*, and other Barons and great Men of *England*, to all Chriſtian people to whom theſe preſents ſhall come, Greeting in the Lord, Whereas upon the by-paſt contentions of War, a certain Ordinance or Form of Peace, by provident deliberation was begun by the Will and Aſſent of *Us, the Prelats and the whole Community of the Kingdom* aforeſaid, *&c.* In teſtimony of which thing, We the King of *England*, the Earls of *Leyceſter* and *Glouceſter*, *John*, *John*, *Henry*, *William* and *Gilbert*, for our ſelves, and the other Barons, and the **Community** of the Kingdom of *England*, have put to our Seals. Dated at *Canterbury* on the Thurſday next after the Feaſt of the Nativity of the Bleſſed Vigin, in the year of our Lord, 1264. A

This Feaſt is on the 8th of *September*.

We find in this Record a Form of Peace begun by the Aſſent of the King, the *Biſhops*, and *whole* **Community** of the Kingdom. And can our Author, or any Man ſay the **Earls** and great **Barons** gave not their conſents to that Form of Peace, or were not preſent when it was made; and if they did, they muſt be included in, and were a part of this **whole Community** of the Kingdom. **All theſe perſons** that with the *King* make themſelves Parties to this Declaration to all Chriſtian People, were **Earls** and **Great Barons**, and the very **Heads** of the **Rebels**, that now had the *King* and *Prince*, *&c.* **Priſoners**; and were the ſame perſons that Sealed it for **themſelves**, and the other **Barons**, and the **Community** of the *Kingdom* of *England*: which **Community** muſt be the **Community** of the *Barons* and *Great Men*, *Tenents in Capite by Military Service*, and no other. How can the *Lords* or *Barons* ſign any thing for the **Commons**, as at this day underſtood: They did not then, nor now do Repreſent them; if what our Author ſays in his **Appendix** be true; ſo that he muſt either retract what he ſaid there, or acknowledge this was the **Community** of the *Barons*, for whom they put to their Seals; and whether he retracts the firſt, or confeſſeth the Laſt, he gives over his Cauſe. But that they were the **Community** of the *Barons* and Great Men only intended in this and the other *Records*, will be clear from the following impregnable inſtance. B C D

See *Dugd. Baron.* Tome 1. in their ſeveral names.

The Community of *England*, the Community of the Barons.

Adomat or *Aymar de Valentiâ* the Kings half Brother by his Mother, was *Elect* of *Wincheſter*, againſt whom the *Barons* were much incenſed; and he fearing the Effects of their hatred, withdrew himſelf out of the Kingdom. The *Great Men* fearing he ſhould go to *Rome*, and procure himſelf to be conſecrated there, write to the **Pope** amongſt other things, by four *Meſſengers* or *Procurators* which they ſent to him, that he would by the fulneſs of his Power, remove him from the Adminiſtration of the Church of *Winchester*, eſpecially ſeeing he was only elected and not conſecrated. E F

Mat. Paris Additam. fol. 217. lin. 6. n. 30. A. D. 1258. *Hen.* 3. 42.

The

The Title of which Letter is:

Literæ Missæ a Communitate Angliæ Domino Papæ. Letters sent from the Community of *England* to the Lord the **Pope**. And the Direction thus. *Sanctissimo in Christo Patri Alexandro divinâ providentiâ Sanctæ Universalis Ecclesiæ Summo Pontifici,* **Communitas Comitum, Procerum, Magnatum, aliorumque Regni Anglie,** *cum subjectione debitâ, Pedum Oscula Beatorum,* &c.

The Letter from the Community of the Nobility to the Pope.

To the Most Holy Father in Christ, *Alexander* by Divine Providence **Pope**, or Great *Bishop* of the *Universal Church*, The **Community** of the *Earls*, *Noblemen*, or *Barons*, *Great Men and others of the Kingdom of* England, with due subjection we Kiss your blessed Feet, *&c.*

And to put the matter beyond all doubt and exception, besides **Six Earls**, and the **Justiciary** of **England**, I shall shew, that the other four were great Barons which put their several Seals to this Letter, **vice totius Communitatis.** Their names follow.

Mat. Paris ut supra, n 20. The Letter signed by Earls and Barons only.

1. *R. de Clare Gloverniæ & Herefordiæ.*
2. *S. de Monteforti Legriæ.*
3. *E. Bigod Mareschallus Angliæ.*
4. *H. de Bohun Hertfordiæ & Essexiæ.*
5. *W. Albemarle.*
6. *J. de Placeto Warwici Comes*, and *H. Bigod Justiciarius Angliæ.*

1. **P. de Subaudia**, he was the Queens Uncle, and *Earl* of *Richmond*, and a great *Baron*.

Mat. Paris fol. 549. n. 30. *Dugd. Baron* fol. 49. col. 2.

2. **J.** or **Johannes fil. Galfridi**; he was a descendent from *Galfrid*, or *Geofry Fitz-Piers*, or **Petre Earl** of **Essex**, and *Justiciary* of *England*, had his Estate and Barony, and was Grandfather to *John Fitz-John*.

Ibid. fol. 703. col. 2. 706. col. 2.

3. **Jacobus de Audel** or **Audley**, was a potent *Baron*, whose Seat was at *Aldithley* in *Staffordshire*.

Ibid. fol. 747. col. 1.

4. **Petrus de Monteforti** was a very great *Baron*; the head of his Barony was *Beldesent-Castle* in *Warwickshire*, and he was the greatest *Rebel* and *Traytor* in *England*, next to *Simon Montfort Earl* of *Leycester*. He Married *Alice* Daughter to *Henry*, and Sister to *James de Audley*, next above written.

Ibid. fol. 407. col. 1. 2. fol. 409. col. 1. 2. Eight of the eleven were of the same Stamp.

As I have before, so let me again ask our Author, Did these eleven persons, *all very great* **Earls** *and* **Barons**, represent the whole **Commons** or **Community** of *England*, as at this day understood, or did they represent the **Community** of the *Barons* only, together with the **Alios**, the *Milites*, which held by *Military Service* of the great *Barons*, and the lesser *Tenents in Capite*, for the whole Community here intended must be one of them. Let him pitch upon which he will, *he must yield his Assertion.* For certainly these **Great Earls**, and **Barons** that sealed this Letter, **vice totius communitatis**,

Earls and Barons did not represent the Commons.

tatis, were not chosen nor sent by the Commons, to this **Parliament or Meeting**, nor were the **Commons** represented as at this day by them.

Auctar. Additam. fol. 222. n. 30.

Further the Title of the Popes Answer to these Letters, is very observable, and much to our purpose. *Literæ Papales missæ* **Communitati** *Angliæ, Responsivæ ad eorum petitiones præmissas ad curiam*, &c. A

The **Popes** Letters in Answer to the Petitions of the **Community** of *England* sent before to our Court, &c.

Ibid.

Which are directed only, *Dilectis filiis*, **Nobilibus virís Consiliariis** *Clarissimi in Christo filii nostri illustris Regis Angliæ ac* **ceteris Proceribus & Magnatibus** *Regni Angliæ, Salutem & Apostolicam Benedictionem.* B

To our beloved Sons the **Noblemen Counsellors** of our most dear Son in Christ the illustrious *King* of *England*, and the other **Noble** and **Great Men** of the Kingdom of *England*, Greeting and Apostolical Benediction.

The Commons, as at this day known, not to be found amongst the Community of *England* in old Historians.

How he will find any of our **Commons** as at this day known amongst this **Community** of *England*, I understand not. If he will say the Titles of these *Letters*, were only the **Notes** of *Mat. Paris* upon them, in the *old MS.* called the *Book* of St. *Albans*, or his *Additamenta*, and so not much to be regarded. I answer that in his time he was a very knowing Man, and is now incomparably the best *Historian* we have; and if these Titles were his Notes, (which cannot be denied) we are sure he truly noted and delivered to us the true sense and meaning of **Communitas Anglie**, after he had perused the **Popes** Answer, who were only the **Nobiles viri**, *Regis Consiliarii*, and the **Proceres & Magnates** *Angliæ*; that is **Baronagium** or **Barnagium** *Angliæ*, who, as *Paris* saith, **wrote this very Letter** *to the Pope.* C D

Fol. 978. lin. 10.

And besides this Matter of Fact, there may be reason given, though I shall not lay any stress upon it, why the **Earls** and **Barons** or **Baronage**, were in those times called the **Communitas Regni**; for as **Bracton** hath it, who was a Judge in the time of *Henry* III. and *Edward* I. *Regnum ex Comitatibus & Baroniis constitutum dicitur*, the Kingdom is said to consist of *Earldoms* and *Baronies*. And in this sense it was that **Eadmer** says *in subsequenti Navitate Domini Christi Regnum Angliæ ad curiam Regis Lundoniæ pro more convenit*, and *Paris* often calls the Temporal Barons, *Regnum. Conveniente tandem Archiepiscopo Cantuariensi cum Episcopis & Magnatibus Regni Lundonii in præsentiâ Regis, tractatum est ibidem per triduum inter* **Regnum & Sacerdotium**, *&c.* E F

P. 76. b. lin. 4, 5.

Hist. Novor. f. 105. lin. 3.

Fol. 246. n. 50.

The Temporal Earls and Barons called *Regnum.*

Ibid. fol. 700. n. 40.

And in a Letter from the *Abbats*, and *Priors* to the Pope, amongst other things, they beseech him to abstain from giving Ecclesiastick Preferments to Strangers, especially such as were in the Patronage of the *Nobility*, by which means, say they, *provideat sanctitas vestra ut* **Regnum & Sacerdotium** *nullatenus sunt divisa*; and in very many places the like Expressions.

But

But further, to make good what I have said in the inforcing of this Instance, I shall produce a *Letter* of the Kings, upon *Record*, in answer to the *Pope*, concerning this very *Matter* and *Business*, about which the *Barons* wrote their *Letter* to him.

Domino Pape Rex Angliæ Salutem. Cum reverentia & honore venientem ad regnum Angliæ & ad presentiam nostram religiosum virum
A *fratrem Valastum Penitenciarum & Capellanum vestrum a vobis de Fratrum vestrorum consilio destinatum pro restitutione temporalium Episcopatus Winton Adomaro Fratri nostro integre facienda ea quæ decuit suscepimus reverentia & honore. Qui presentatis literis Apostolicis nobis & Baronibus ac Proceribus consiliariis nostris tanquam vir providus & circumspectus pacis ac concordiæ zelator cum multa benignitate & mansuetudine preces & precepta vestra coram nobis & prelatis regni nostri qui tunc nobiscum aderant, ac alia universitate Comitum*
B *Baronum & Procerum regni nostri plene ac diligenter exposuit ut decebat, commemorans & aperiens coram nobis beneficia Romanæ Ecclesiæ innumerabilia ab antiquis temporibus nobis & progenitoribus nostris impensa ac prerogativam multæ gratiæ amoris & favoris quibus nos & regnum nostrum etiam nunc prosequimini inter alios Reges & Principes orbis terræ. Deinde idem frater Velastus multis persuasionibus instantia & sollicitudine astruere & inducere diebus pluribus nitebatur. Nos consilium nostrum, ac universitatem predictam ut eundem Adomarum*
C *fratrem nostrum ad Episcopatum Winton plene restitui pateremur. Alioquin in gratia & favore seu amore vestri & Ecclesiæ Romanæ dispendium pateremur, eo quod si mandatis vestris in hac parte non obtemperaremus contra nos & regnum nostrum cogeremini provocari. Cum ad reddendam justiciam sitis, universis & singulis debitores. Verum licet reverendæ paternitatis vestræ parere beneplacitis totis desideriis affectemus & de tot beneficiis a munificentia vestra nobis & nostris totiens collatis regratiari quamplurimum teneamur. Tamen mandatum hujusmodi quod non solum personam nostram verum etiam universitatem*
D *regni nostri contingit non possumus absque gravi discrimine & subversione jurium & consuetudinum regni ejusdem & contra juramentum proprium adimplere, & quanquam hoc facere vellemus, predicta universitas in hac parte que unius consilii & voluntatis existit propter graves & notabiles excessus predicto fratri nostro objectos, id nullatenus sustineret, &c. Teste Rege apud Winton. xxiii. die Sept.*

E *Eodem modo scribitur Cardinalibus T. ut supra.*

Clauſ. 43 *Hen.* 3. m. 4. Dorſ. The Kings Letter to the Pope, about *Adomar* Biſhop of *Wincheſter*.

The Univerſity of Earls, Barons, and Great Men

The Univerſity of the Kingdom.

To the Lord the Pope the King of *England* Health. We received with what Reverence and Honour became Us, the Religious Man Frier *Valaſt* your Penitenciary and Chaplain, ſent to Us by the advice of your * *Brethren* for the full Reſtitution of the Temporalities of the Biſhopricks of *Wincheſter* to Our Brother *Adomar*; who
F having preſented the Apoſtolick Letters unto Us, and the Barons, and great Men Our Counſellors, as a Diſcreet and Circumſpect Perſon, a lover of Peace, and Concord, with much Benignity and Mildneſs fully and diligently as he ought propounded your Requeſts and Precepts, to Us, the *Prelats* of Our Kingdom that were then with Us, and the other *Univerſity* of *Earls*, *Barons*, and *great Men* of Our Kingdom, remembring and opening unto Us the innu-

* *i. e.* the Cardinals.

merable benefits of the *Roman* Church in ancient times conferred upon Us and Our Progenitors, and the great love and favour with which you do now honour and respect Us, and Our Kingdom. Furthermore, the same *Frier Velast* endeavoured many days together, with much persuasion and sollicitude, to induce Us, and Our Council, and the *University aforesaid*, that we would permit the same *Adomar* Our Brother fully to be restored to the Bishoprick of *Winchester*, otherwise that We should lose the favour of you, and the *Roman* Church, in that if We obeyed not your Commands, you would be provoked against Us and Our Kingdom, when as for the doing of Justice you are a Debtor to every Man. But although We wholly desire to obey the good Pleasure of your Fatherhood, and are bound to be grateful, for so many favours bestowed on Us, and Ours, yet We cannot obey this Command, which not only concerns Our Person, but also the *University* of Our Kingdom, without great danger, and the subversion of the Laws and Customs of the same Kingdom, it also being contrary to Our Oath; and though we would do it, yet the *University aforesaid*, being of one Mind and Resolution, in this Matter, for the great and notable excesses or faults objected to our foresaid Brother, will in no wise suffer it, *&c.* Witness the King at *Winton* 23 of *September*.

A

B

In the same manner the King wrote to the Cardinals.

C

Here we have *Frier Velast* presenting the Popes Letter to the *King* and *Barons* and great Men of his Council, and propounding his Requests and Commands, to the Prelats of the Kingdom, and the other Universities of *Earls*, *Barons*, and *great Men* of the Kingdom, and solliciting the *King*, *Council*, and *University* aforesaid, fully to restore *Adomar*, the Kings half Brother to the Bishoprick of *Winchester*. To which the King Answers, That his Demands, not only concerned him, but also the *University* of the Kingdom, and that though he were willing to do it, yet the Universities of the Kingdom aforesaid, would in no wise suffer it; Who therefore that well observes this Letter, and that in *Matthew Paris*, from the Barons to the Pope about the very same matter, and what hath been said before, can doubt, whether the *University* of the *Kingdom*, were the same with the *University* of the *Earls*, *Barons*, and *Great Men*?

D

The Universities of the Kingdom.

The same with the Universities of Earls Barons, and Great Men.

E

P. 38, and 53.

And now to answer his Demand at the close of this Argument, who the **Communitas** were after the *words* **Prelati, Barones, & Magnates**? I affirm they were all these put together, including also the lesser *Tenents in Capite*, that were the **Communitas Anglie, tota Nobilitas Anglie, Universitas Baronagii, Universitas Regni**, &c. as will be more fully made out upon the consideration of his third Observation.

Communitas Angliæ, or the Community of *England*, were all the Orders of the Nobility put together.

F

The

The Fifth Argument *Consider'd.*

WHich is grounded upon a *Claim* by **Petition** of the **Commons**, not *Protestation*, as he insinuates, That they had ever been a *Member* of the *Parliament*, or that *no Statute*, or *Law*, should be made without their Assent. P. 39.

The *Petition* it self, with the *Kings* Answer, and what else is contained in the same Number in this Record follows. Rot. Parl. 2. *Hen.* 5. p. 2. n. 10.

Item fuit a Remember que les Comens baillerent a Roy nostre Seignour tressoverain en cest present Parlement un Petition dont le tenure ensuit de mote en mote. N. 10.

Also it is to be remembred that the **Commons** delivered a Petition to the King our most Soveraign Lord in this present Parliament, the Tenor of which follows word for word.

Our Soverain Lord.

YOur humble and trewe Lieges that ben come for the Comens of your Lond bysechin on to your ritz Wisseneſſe. Tha soo as hit hath evere be thair Libertie and Freedom, that thare should noo Statute, noo Law be made of lass than they yaf thereto thair Assent considering that the Comens of your Lond, the which that is, and **ever hath be a Member** *of your* **Parlement,** *been as well assentirs as peticioners: that fro this time forward by compleint of the Comens of eny of mischief asking Remedy by mouth of their Speaker for the Comens, oather elſe by Petition written, that there nevere be noo Law made there upon, and ingrossed as Statut, and Law, neither by additions, neither by diminution, by noe manner of terme, ne termes, the which shold change the Sentence, and the intent axked by the Speker mouth, or the petitions by fore said yeven up in wryteing by the manner foresaid without assent of the forsaid Comens, consydering our Soverain Lord that it is not* **in nee wise the intent of your Comens, gif it be se that they aske you by speking or by wryteing too things or three,** *or as many as theym list, but that evere it stoud* **on the freedom of your hie Regalie to grant which of the too you lust, and to werune the Ramanent.**

At this time it was the practice of the Commons to complain of Mischiefs, and ask Remedies, &c.

To deny.

The King of his Grace especial graunteth that fro henceforth, nothing be enacted to the Peticion of his Comun, that be **contrary** *of hir asking what by they shulde be* **bounde without thair Assent,** *saving alwey to our Liege Lord his* * **reall prerogatyf to grant and deney** *what him* **lust** *of your* **petitions** *and asking aforesaid.*

* Royal.

Also the King having a great care of the Estate of Holy Church, and the whole Kingdom, *del advys & assent des Seignours Espirituelx & Temporels & a la* **Requeſt** *de ses Comens avant ditz, faitz certain Estatutz Declaracions & Ordinances. By advice and assent* of the Lords Spiritual and Temporal, and at the **request** of his Commons afore- Ibid. n. 10.

aforesaid, made certain Statutes, Declarations, and Ordinances, *&c.* which follow in the Record, N. 11. *&c.*

The Design of that Petition.

The design of this Petition was not to claim the Antiquity of their existence, but their Right, that nothing might be Enacted without their Assent, contrary to their Intent and Liking; and to shew that it was never done since the Commons were a Third Estate, or as they say a *Member* of *Parliament*, and to prove that which no body denies, that the **Assent** of the **Commons** is now required to the making of Statutes and Laws he runs into a needless Discourse, and cites many Authorities since the 49 of *Hen.* III. that the *Commons* became a third Estate, which is what he further says upon this Argument. When as if he had attended to the **Kings Answer** to this Petition, and what immediately follows it in the very *same Number*, upon the *Parliament Roll* as 'tis here cited, he might have found the manner how the **Commons** concurred to the making of Laws at that time, without troubling the Reader with his Citations and Observations on them to no purpose.

A

B

P. 41.

P. 40.

But he takes only so much out of this Petition as he thinks serves his turn, and unhandsomly calls it a *Claim* and **Protestation** in page 39, and lays the great stress of his Argument upon the words, **hath ever be.** What, were the **Commons** of *England* as now Represented by *Knights*, *Citizens*, and *Burgesses* ever an essential constituent part of the Parliament, from eternity, before man was created? Or have they been so ever since *Adam*? Or ever since *England* was peopled? Or ever since the *Britains*, *Romans*, and *Saxons* inhabited this Island? Certainly there was a time when they began to be so represented. And that is the Question between us, which whether this Gentleman, or my self, be in the right, I leave to any impartial Judge.

C

D

Rot. Parl. 11. *Ric.* 2. *part.* 2. *artic.* 11. *Contra De la Poole, &c.* The Parliament hath been mistaken in Periods, and Computation of Time.

And further, that Parliaments sometimes have been mistaken, in Computation of time, and periods when things began, and have made things of longer duration then they really were, there is this Instance, *Item, La ou la graunt Seigneurie, & la terre d'Irland, ejant & ount este, de Temps d'ount memorie Court, percelle del Corone Dangleterre, &c.*

E

'Tis here said that *Ireland* was parcel of the Crown of *England* time without memory, whereas it was Conquered, and annexed to the Crown of *England* in the time of *Henry* the *Second*, about 200 years before that time; and the memories of the Conquest, could not but be evident, and a thing whose beginning is known, cannot be said to be an immemorial thing. So when the Commons say they ever have been a Member of Parliament, 'tis not to be understood, they were so from the Original of Common, or great Councils, *Colloquiums*, or Parliaments, but that they had been so a great while, as *Ireland* had been parcel of the Crown of *England*.

F

Pet. p. 51.

In the Sixth Argument there is nothing worth Notice.

The

The Seventh Argument *Considered.*

WHich he draws from the defect and loss of *Parliament Rolls* of *Henry the Third*, and *Edward the First*, and from the *Universal Silence* of all *Records*, and our Ancient Historians contemporary, and succeeding 49 *Hen.* 3. till our days. His own words, p. 55.

I confess the *Parliament Rolls* of *Henry the Third*, and *Edward the First*, are wanting, so that we cannot be so well assured what was done in the Parliaments of those times, as we may be afterwards; yet there are **Writs** of **Summons** extant upon the **Close Rolls**, before, and in those times, by which the *Bishops*, *Earls*, and *Barons*, were summoned to *Parliaments* or *Great Councils*: and we have all the *Close Rolls* of King *John*, and *Henry the Third*, in the Dors of which anciently most of the Writs of Summons to the *Commons* in *Other Kings Reigns* are entred (few on the Patent Rolls, which we have likewise) 'Tis therefore very strange, if the Commons were represented by *Knights*, *Citizens*, and *Burgesses*, and *summoned* to *Parliament* as at this day, that there cannot be found any *Summons* to them upon these Rolls, as well as to the Lords. For the Readers satisfaction, I shall set down a Writ of Summons to the Lords in King *Johns* Reign, and another in *Henry* III.

The Parliament Rolls of *Hen.* 3. and *Edw.* 1. wanting.

There are Writs of Summons in those times.

Rex Episcopo Sarum, mandamus vobis rogantes quatenus omni occasione & dilatione postpositis, sicut nos & Honorem nostrum diligitis, sitis ad nos apud London die Dominicâ proximâ ante Ascentionem Domini, nobiscum tractaturi de magnis & arduis negotiis nostris & communi Regni nostri utilitate; Quia super his, quæ à Rege Franciæ per nuntios nostros & suos nobis mandata sunt, unde per Dei Gratiam bonum speramus provenire, expedit habere Consilium & aliorum Magnatum terre nostre quos ad diem illum & locum fecimus convocari. Vos etiam ex parte nostrâ & vestrâ Abbates & Priores Conventuales totius Diœces. vestræ citari faciatis, ut ad Concilia prædicta vobiscum intersint, sicut diligitis nos & communem Regni utilitam.

Cl. 6. *Johannis* m. 3. Dors. Summons to Parliament in the time of King *John*. *An. Dom.* 1205.

Teste, *&c.*

Rex venerabili in Christo Patri W. Eborum Archiepiscopo salutem, mandamus vobis, rogantes quatenùs sicut nos & Honorem nostrum pariter & vestrum diligitis, & in fide quâ Nobis tenemini, omnibus aliis negotiis omissis, sitis ad nos apud London à die Sancti Hillarii, in quindecem dies ad tractandum nobiscum, una cum ceteris magnatibus nostris quos similiter fecimus convocari de arduis negotiis nostris statum nostrum, & totius Regni nostri specialiter tangentibus, & hoc nullatenus Omittatis. Teste Rege apud Windlesh. Decimo quarto die Decembr.

Clauss. 26 *H.* 3. m. 13 Dors. Summons to Parliament in the time of *H.* 3. *An. Dom.* 1242.

Eodem modo scribitur omnibus Episcopis Abbatibus Comitibus & Baronibus.

The

See in the Answer to the Ninth Argument another Writ of Summons, 38 *Hen.* 3.

The whole Transactions of this Parliament, according to the date of the Writ, are to be found in *Mat. Paris, fol.* 581, *n.* 20, *&c.*

These are sufficient to shew there is not such an *Altum silentium*, so deep a silence of all *Records* as this Gentleman avers. And for our *Ancient Historians, Mat. Paris*, who wrote his *History* at the *Command* of *Hen.* 3. *and died in the* 43*d year of his Reign*, 1259. doth abound in remembring *General Councils, Colloquia*, or *Parliaments*, and things agitated in them; As also *William Rishanger*, a Monk of the same Abby, who continued his *History* at the command and charge likewise of the same *King*; of which I present the Reader with this **Collection**, and leave him to judge, whether in those days it is probable, the **Commons**, as at this day represented, were an Essential part of Great Councils, or Parliaments, and so end my Answer to this Argument.

Mat. Paris, fol. 209. n. 50.

Anno Gratiæ 1204. *in Crastino circumcisionis convenerunt ad* **Colloquium** *apud Oxonium* Rex & Magnates Angliæ, *ubi concessa sunt Regi Auxilia Militaria, de quolibet scuto duæ Marcæ & dimidium.*

Ibidem, fol. 239. n. 40.

Interfuerunt Concilio apud Sanctum Albanum Galfridus filius Petri (*he was Justiciary*) & Episcopus Wintonienfis, *cum* Archiepiscopis & Episcopis & Magnatibus *Regni.*

Ibidem, fol. 249. n. 30.

Legatus grande Concilium apud Sanctum Paulum in Urbe Londinensi congregavit, ubi congregatis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis *ad negotium interdicti spectantibus, proposuit*, &c.

Ibidem, 310. n. 20.

Anno Domini 1221. *Rex Henricus ad* **natale** Domini *apud Oxonium tenuit* **Curiam suam**, Presentibus Comitibus & Baronibus Regni.

Ibidem, fol. 316. n. 50. 1223.

In Octavis Epiphanii Hen. Rex *apud* Londonias *veniens cum* Baronibus *ad* **Colloquium.**

Ibidem, fol. 320. n. 20.

Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis *convenerunt ad* **Colloquium** *in octavis Sanctæ Trinitatis apud Northampton de regni negotiis tractaturi: voluit enim Rex uti consilio* **Magnatum** *suorum de Terris transmarinis.*

Ibidem, 367. n. 50.

Anno Domini 1231. 7 *Calend. Febr. convenerunt ad* **Colloquium** *apud* Westmonasterium, Rex *cum* Prælatis & *aliis* Magnatibus Regni.

Ibidem, fol. 372. n. 40. 16 *Hen.* 3.

Anno Domini 1232. *Nonas Martii ad* **Colloquium** *apud* Westmonasterium *ad vocationem* Regis, Magnates Angliæ, *tam* **Laici** *quam* **Prælati.** *When the King told them he was much Indebted, by reason of his Wars beyond Sea, and desired Ayd of them*, Comes Cestriæ Ranulphus *pro* **Magnatibus** Regni loquens, Respondet; Quod **Comites, Barones, & Milites**, qui de eo tenebant in capite, cum ipso ibi erant corporaliter præsentes & pecuniam

niam suam ita unanimiter effuderunt, quod inde pauperes omnes recesserunt, unde Regi *de* jure auxilium non debebant, & sic petitâ Licentiâ, Laici omnes recesserunt.

Apud Lanheiam *in exaltatione Sanctæ Crucis, ad* **Colloquium** *coram Rege convenerunt* Episcopi *& aliarum* Ecclesiarum Prælati, *cum* **proceribus** Regni, *concessa est Regi quadragesima pars Mobilium.* Ibid. fol. 377. n. 50. *eodem Anno.*

A

Convenerunt ad **Colloquium** 5 *Id. Apr. Rex cum* Comitibus *&* Baronibus, *&* Archiepiscopis, *cum suis* Suffraganeis. Ibid. fol. 397. n. 10. 1234. 18 H. 3.

1236. 3 *Calend. Maii congregati sunt* **Magnates** Angliæ *Londini ad* **Colloquium** *de negotiis Regni tractaturi.* Ibid. fol. 429. n. 30.

1237. *Scripsit Rex omnibus* **Magnatibus** *suis, ut coram eo, &* Domino Legato, *in festo exaltationis Sanctæ crucis apud* Eboracum *convenirent, de Arduis Negotiis regnum contingentibus tractaturi.* Ibid. fol. 446. n. 20. 21 H. 3.

B

Imminente Purificatione B. V. totius Angliæ **Nobilitas** tam **Prelatorum** *quam* **Comitum, & Baronum** secundum Regium præceptum *est* Londini congregata. Ib. fol. 580. l. 6. *An. Dom.* 1242. 26 H. 3.

Die Translationis B. Thomæ Martyris habitum est **Magnum Concilium** *inter* Regem *&* **Magnates** *apud* Wintoniam *super multiplici Regni totius & maximè Ecclesiæ Desolatione.* Ibid. fol. 709. n 30. *An. Dom.* 1246. 30 H. 3.

C

In Crastino Purificationis Beatæ Mariæ Dominus Rex *cum suis* **Magnatibus** *tractatum habens diligenter per plures dies concilium urgens, Dies protelavit.* Ibid. fol. 720. n. 40. *An. Dom.* 1247. 31 H. 3.

Dominus Rex Jussit omnem totius Regni **Nobilitatem** *convocari, de statu istius tam manifestè periclitantis,* &c. *Prælatos autem maximè ad hoc* **Parliamentum** *vocavit arctiùs, quia videbat eos Rex tam frequentèr depauperari per* Papales *exactiones.* Ib. fol 730. l. 6. 1247. 31 H. 3.

D

In Octavis Purificationis B. V. edicto Regio convocata convenit totius Regni Angliæ **Nobilitas** Londini, *advenerunt igitur illuc, exceptâ* Baronum, Militum, Nobilium, *nec non &* Abbatum, Priorum *&* Clericorum Multitudine copiosa, *Novem* Episcopi, *cum* totidem Comitibus, *which was Prorogued to fifteen days after* John Baptist. Ibid. 743. n. 40. 1247. 31 H. 3.

E

In Quindenâ Paschæ quæ vulgariter **Pokeday** *appellatur, convenerunt* Londini *omnes* **Nobiles** Angliæ, *tam* **viri Ecclesiastici** *quam* **Seculares**, *ita quod nunquam tam* Populosa Multitudo *ibi antea visa fuerit congregata: Tandem in hoc convenerunt communiter, ut Regi renuntiaretur ex parte* **Universitatis** *quod negotium,* &c. Ibid. 904 n. 40. 1255. 39 H. 3.

Et post Diem Martis quæ vulgariter **Pokeday** *appellatur factum est* **Parliamentum** *Londini.* Ibid. fol. 963. n. 40. *An. Dom.* 1258. 42 H. 3. P. 55.

F

These several Parliaments, or Great Councils, besides those which are more particularly taken notice of in this Answer, were held in the Reigns of King *John*, and *Henry* the Third, and therefore not such a silence of Parliaments in the Historians of those times, as our

Author would have the World believe; and from these, many hints may be taken, and observations made, which are repugnant to his Errors, and if he can, let him pick out any Commons in these Great Councils, as at this day chosen and represented.

His eighth Argument hath nothing worthy a serious Consideration.

A

The ninth Argument considered.

P. 71. WHich is from the Comparison of the antient *Generale Concilium*, or Parliament of *Ireland*, in *Anno* 38 *Hen.* 3. with ours in *England*, wherein there were Citizens and Burgesses, as our Author thinks, which was eleven year before the pretended beginning of the Commons here. B

Rot. Pat. 38 Hen. 3. m. 4. Mr. Petits Appendix p. 166. He grounds this Argument upon the two following Records; *Rex venerabilibus in Christo patribus, omnibus Archiepiscopis, Episcopis, & Dilectis sibi in Christo, Abbatibus, & Prioribus, & dilectis fidelibus suis universis Comitibus, Baronibus, Militibus, & aliis fidelibus suis Hiberniæ, salutem. Mittimus Dilectum & fidelem nostrum* **J. Filium Galfridi Justitiarium** *nostrum Hiberniæ, ad partes Hiberniæ, ad exponendum vobis statum nostrum & terræ nostræ Vasconiæ, & pericula nobis imminentia, & ad tractandum vobiscum super Auxilium nobis faciendum contra Regem Castell. Qui dictam terram nostram Vascon. in manu forti in Quindenam Paschæ primo futuram, hostiliter est ingressurus, vobis mandantes quod eidem Justitiario nostro in iis quæ vobis ex parte nostra super prædicto auxilio perquirendo intimabit fidem adhibeatis. In cujus, &c. T. Alianora Regina nostra, & Richardo Comite Cornubiæ apud Westm. 2° Die Febr. per Reginam.* C D

Ibid. & Mr. Petits Appendix, p. 167. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, liberis Hominibus,* **Civibus, Burgensibus,** *& omnibus aliis fidelibus suis terræ suæ Hiberniæ salutem. Mittimus fratrem* **Nicholaum** *de Sancto Neoto, fratrem Hospital. Sancti Johannis Jerusalem in Anglia ad partes Hiberniæ ad* **Exponendum** *vobis una cum* **J. Filio Galfridi Justiciario** *nostro Hiberniæ, statum nostrum & terræ nostræ Vascon. & pericula nobis imminentia de hostili adventu Regis Castell. Qui nullo jure sed potentia sua confisus terram nostram Vascon. per ipsius fortitudinem à manubus nostris auferre & à Dominio Regni Angliæ segregare proponit universitatem vestram quantum possumus affectione Rogantes quatinus nos & Jura nostra taliter indefensa non deserentes nobis in tanto periculo constitutis Quantumcunque in mundo poteritis de Gente & pecunia ad prædictæ terræ nostræ Defensionem, quam prædictus Rex in manu forti in Estate proximè futura hostiliter est ingressurus, subveniatis, quod in vestrum Honorem vertetur sempiternum, cum ex contrario hujus negotii eventu non tantum nobis, set singulis Regni nostri & terræ nostræ Hiberniæ——— & Rerum Dampnum immineat periculosum. Hiis nostris Angustiis taliter Compatientes, quod nos & hæredes nostri, vobis & hæredibus vestris sumus non immerito obligati,* E F

obligati, in cujus, &c. *Teste A. Regina & R. Com. Cornub. apud Windesor* 17° *Die Febr.*

Per Reginam.

The King to the venerable Fathers in Christ, all the Archbishops and Bishops, and to his Beloved in Christ, the Abbats and Priors, and to his Beloved Feudataries, the Earls, Barons, Knights, and A other his Liege-men, or Feudataries of *Ireland*, Health; We send our Beloved and Faithful *J. Fitz-Geofry* our Justiciary of *Ireland*, to the parts of *Ireland*, to expound to you our State, and the State of our Land of *Gascony*, and the Dangers impending on us; and to treat with you about an Aid to be made to us against the King of *Castile*, who within fifteen days of *Easter* next coming, intends, with Arms, to invade our Country of *Gascony*. Requiring you to believe, what he shall say unto you from us, concerning the said B Aid. Witness *Alianor* our Queen, and *Richard* Earl of *Cornwall*, at *Westminster* the second day of *February*.

By the Queen.

The King to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights, Free-men, **Citizens** and **Burgesses**, and all other his Liege-men or Feudataries of his Kingdom of *Ireland*, Health: We send Frier *Nicholas* of St. *Neots* (or *Needs*) a Frier of the Hospital of St. *John*'s of *Jerusalem* in *England*, to the parts of *Ireland*, C to expound to you, together with *J. Fitz-Geofry* our Justice of *Ireland*, our Condition and the State of our Country of *Gascony*, and the Danger we are in, by reason of the Expectation of an Hostile Invasion by the King of *Castile*, who trusting only to his Power and Strength, without Right, Designs to take it from us, and sever it from the Dominion of *England*; with what affection we are able, we require your University that you would not Desert D us in so great Danger, and leave our Rights without Defence, and that you would give us the utmost assistance you can, in Men and Money, for the Defence of our said Country, that so it may redound to your eternal Honor, so that we and our Heirs, may worthily be obliged to you and your Heirs; witness *Alianor* the Queen, and *Richard* Earl of *Conwall*, at *Windsor* the seventeenth day of *February*.

By the Queen.

E

From these Records, but especially the last, he would prove that the Commons, as now represented by Knights, Citizens, and Burgesses, were called to Parliament in the 38 of *Henry* the Third in *Ireland*, and consequently in *England*, because the whole Platform of the *Irish* Government was sent from hence. It may justly be doubted whether either Justice *Fitz-Geofrey* or Frier *Nicholas* had Commission to call a Parliament; it doth not appear they had by these Records; or whether this Aid required, was a Tax, or Free Contribution, given and granted by several great Meetings or Conventions of the *Irish* in several distinct places, for after that manner they sometimes met, for the Transactions of publick Business, as is evident from Record, about twenty years after this Imployment of Father *Nicholas*. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis Anglicis de*

Doubtful whether these Conventions of the *Irish* were Parliaments.

Rot. Pat. 5. Ed. 1. M. 13. Mr. Petit. p. 74.

Terra Hiberniæ, &c. *vobis mandamus quod ad certos Dies quos ad hoc provideritis, videlicet circa festum Nativitatis Beatæ Mariæ Virginis, in aliquibus locis oportunis conveniatis & diligenter inter vos Tractatum habeatis, utrum fuerit præjudicio vestri, & libertatum & consuetudinum vestrarum*, &c. The King to the Archbishops, Bishops, Abbats, Priors, Barons, Knights, and all English in the Kingdom of *Ireland*, We Command you, that on certain days which you shall choose, about the Feast of the Nativity of the Virgin *Mary*, you meet in some convenient places, and treat diligently amongst your selves, whether it will be to the prejudice of you, your Liberties and Customs, that the natural *Irish* enjoy the same Laws and Customs in common with you, *&c.* A

Though perhaps this might be a sufficient Answer, yet I insist not upon it, but apply my self to examine the Records themselves, and give the History of the Affair they mention. The King at this time was in *Gascony*, and in great want of Men and Money to carry on the War against the Rebellious *Gascoines*, and the King of *Castile* who assisted them. He wrote to the Queen and his Brother *Richard* Earl of *Cornwall*, (who were Regents in his absence) to call a Parliament on the morrow after St. *Hillary*, but before they received the Kings Letters, the time was too short for their meeting then, and therefore they summoned it to meet at *Westminster*, on the Quindene of that Feast which was on the 27th of *Jan.* but five or six days before the Date of the first Record; And did meet accordingly at that time and place; it may very well be believed that the Queen and Earl did perceive this meeting would prove insuccessful, when they wrote the first Letter in the Kings name, by Justice *Fitz-Geofry*, to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights and Liegemen, or Feudataries of *Ireland* only, but when they saw the Baronage in Heats and Animosities amongst themselves, and against the King, and that their meeting ended without contributing to the Kings necessities; fifteen days after they reinforce the first Letter, with a second by Frier *Nicholas*, and do then further write to the Citizens and Burgesses, that they might thereby procure a greater Sum, which was the only Design of writing to them; for if the Men and Money were to be Raised and sent by Authority of Parliament, both the Letters or Writs were directed to such Persons as could sufficiently make a Parliament, or the Capital Justice of *Ireland*, was a very ignorant Person, and did not know the constituent parts of a Parliament, (which is hardly to be supposed;) but if he did know the constituent parts of a Parliament, the Assembly, according to the Direction of the first Record, without Citizens and Burgesses, was a Parliament, and so his Argument from this Record, is of small Consideration.

The Reason of calling a Parliament, 38 *Hen.* 3. A. D. 1234. Paris, Addiram, fol. 189. n. 50.

Ibid. Hist. fol. 881. n. 30.

The Reason why the *Irish* Citizens and Burgesses were convened.

B C D E

But let us see what the *English* Parliament was *de facto*, which was summoned to meet about the same Business of *Gascony*, but five or six days before the Date of the first Record; and follow matter of fact, rather than an Argument by comparison. The Summons to this Parliament or Council, are extant on the close Roll of this year. F

Clauf. 38 *H.* 3. M. 14. Dorf. de Magnatibus vocatis ad Concilium. Note *Mat. Paris* calls this a Parliament.

Rex Bonifacio Cantuarienſi Archiepiſcopo ſalutem, cum quædam ardua & urgentia negotia ſtatum noſtrum & Regni noſtri tangentia habeamus

mus vobis communicanda quæ sine consilio vestro & aliorum Magnatum *nostrorum nolumus expedire, vobis mandamus in fide qua nobis Tenemini firmiter injungentes, quatinus sicut nos & honorem nostrum diligitis nullatenus omittatis quin à die Sancti Hillarii proximo futuro in quindecim dies sitis apud* Westminster *coram Regina nostra, &* Richardo *comite Cornubiæ fratre nostro comorantibus in* Anglia, *& aliis, quos ad eundem diem missuri sumus de consilio nostro Vasconie audituri Bene-placitum nostrum & voluntatem, & cum præfato Concilio nostro super prædictis negotiis tractaturi, nec retardetis adventum vestrum, quin sitis ad dictum diem tempestive Testibus A. Regina & R. comite Cornubie apud* Westminster 27. *die* December.

A

The King to *Boniface* Archbishop of *Canterbury*, Greeting, Whereas we have certain arduous and urgent matters touching us and the State of our Kingdom to be communicated to you, which without the advice of you and our other great men, we would not transact. We command, firmly injoyning you, by the Allegiance in which you are bound to us, as you love us and our Honour, that you will in no wise omit to be at *Westminster* fifteen days after St. *Hillary* next coming, before our Queen and *Richard* Earl of *Cornwall* our Brother, remaining in *England*, and others of our Council of *Gascony*, which we shall send at the same day, to hear our good will and pleasure, and with our foresaid Council to treat about the matters aforesaid: and you are to be there in good time, on the day appointed; Witness *Alianor* the Queen, and *Richard* Earl of *Cornwall* at *Westminster* the 27. of *December*.

Summons to the Parliament, 38 *H.* 3.

B

C

Of this very Council *Mat. Paris* says, *Anno Dom.* 1254. *Sexto Kalendas Februarii die videlicet Sancti* Juliani *convenissent universi fere Angliæ* Magnates, *viz. Comes Mareschallus R. Bigod, Gilbertusque de Segrave, speciales Domini Regis nuntii, ad Parliamentum venientes, ex parte ejus propositum suum præcordiale,* universitati *Angliæ nunciantes, adierant autem illuc comes* Richardus *frater Domini Regis Scilicet comes* Cornubiæ, *cum Domina Regina,* &c. In the year of our Lord 1254. (which was 38 of *Henry* the Third, on the sixth of the Calends of *February*, that is to say, on St. *Julian*'s day, almost all the Great men of *England* came together, and to the Parliament, where the Earl Marshal *Roger Bigod*, and *Gilbert de Segrave*, the Special Messengers from the King, declared his hearty Intentions and Requests to the University of *England*; here were present *Richard* Earl of *Cornwall* the Kings Brother, with the Queen: Now I shall shew what the Great Men and University of *England* were, that constituted this Parliament, and leave it to the Judgment of the Reader, whether the Commons as now, or whether any Citizens or Burgesses were summoned to it. Of this Parliament *Paris* says, (after he had told in what Heats, and of what Temper the People were) *Sic igitur solutum est concilium cassum & inane*; so this Council did nothing. And then refers to Earl *Richard*'s Letters, wherein he gave an account to the King, of the Issue of this Parliament, in his Book of Additaments, which are in these words.

Fol. 881. n. 30.

D

E

The Constituent parts of that Parliament.

Ib. f. 882. n. 10.

F

Domino Regi Angliæ, *&c. Regina &* Richardus *Comes* Cornubiæ *Salutem. Recepimus literas vestras ad Natale Domini proxime præteritum*

Libro Additament. fol. 189. n. 50

teritum, quod in Craſtino *Sancti* Hillarii *Convocaremus Archiepiſcopos, Epiſcopos, Abbates, Priores, Comites, & Barones Regni* Angliæ, *ad oſtendendum eis ſtatum veſtrum, & adventum Regis* Caſtellæ *in Vaſconiam contra vos. Et quia Brevitas Temporis non patiebatur, quod dicti* Magnates, *ad dictum diem poſſent convenire, vocavimus eoſdem apud* Weſtmonaſterium *in Quindena dicti Feſti Sancti* Hillarii. *Quibus Congregatis, & expoſitis, eis, adventu dicti Regis, & ſtatu veſtro Reſponſum Recipimus*, &c. To the King of *England*, &c. The Queen and *Richard* Earl of *Cornwall* Health. We received your Letters at *Chriſtmaſs* laſt paſt, that we ſhould Summon the Archbiſhops, Biſhops, Abbats, Priors, Earls, and Barons of the Kingdom of *England*, to ſhew unto them your Condition, and the coming of the King of *Caſtile* into *Gaſcony* againſt you, and becauſe of the ſhortneſs of time, the ſaid Great Men could not meet at that day; we ſummoned them to meet at *Weſtminſter* in the Quindene of the ſaid Feaſt of St. *Hillary*: To whom when they were come together, having declared the expected Invaſion of the ſaid King, and your Condition, we received Anſwer, *&c.* *De facto*, theſe were the Conſtituent parts of the *Engliſh* Parliament, that treated about the very ſame Matters which were to be propounded to the *Iriſh*.

Who were the Conſtituent parts of the Parliament. 38 of *Hen.* 3. Note the ſixth of the Calends of *Febr.* the Feaſt of St. *Julian* and the Quindene of St. *Hillary*, were all the ſame day, that is, the 27th. of *January*.

If any man asks a reaſon why the Directions of the laſt *Iriſh* Record were ſo general? I anſwer, it was to take in all the Tenents in *Capite*, and all others that had any ſpecial Priviledges from, and dependence upon the King, to make the Aid and Aſſiſtance of Men and Money the greater, ſince the *Engliſh* Parliament was broken up, without doing any thing for him; and that the Cities and Burghs were really the Kings Cities and Burghs, as his Demeaſns, he being Lord of them, or ſo reputed and eſteemed, from the Priviledges they injoyed from, or under him, by Charter or otherwiſe.

The Citizens and Burgeſſes in *Ireland*, came from ſuch Cities and Burghs as held of the King.

To Illuſtrate at leaſt, if not fully to evince this Point, I ſhall produce an *Iriſh* Record or two concerning the like matter, about ſeventeen years before the Date of theſe. *Rex venerabilibus in Chriſto Patribus univerſis Dei Gratia Archiepiſcopis, Epiſcopis, Abbatibus, & Prioribus, & dilectis, & fidelibus ſuis Comitibus Baronibus Militibus & liberis hominibus in Hibernia conſtitutis ad quos preſentes littere pervenerint Salutem. Cum propter maritagium dilecte Sororis noſtre* Iſabelle *quam maritavimus Domino Imperatori ſicut ſatis audiſtis non ſolum eidem Imperatori ſet & Domino Pape & aliis propter diverſa regni noſtri negotia in magna teneamur ſumma pecuniæ & ultra modum debitis oneremur adhuc licet fideles noſtri de regno noſtro* Angliæ *ad hoc efficax nobis conſilium impenderint Univerſitatem veſtram rogandam duximus cum affectu quatinus cum ſperemus de liberalitate veſtra quod in urgenti neceſſitate noſtra conſimilem gratiam nobis facere debeatis nec facile ſit nobis ſine adminiculo veſtro à tam gravium onere debitorum liberari juxta fiduciam quam de vobis reportamus ita liberaliter & efficaciter nos juvare velitis ad liberalitatem veſtram prædictam. Cum per Juſticiarium noſtrum Hiberniæ fueritis inde ex parte noſtrâ requiſiti quod non ſolum ex impenſo nobis auxilio poſſitis ab aliis merito commendari ſet exinde debitores nos conſtituatis ad perpetuas gratiarum actiones.*

Clauſ. 21. *H.* 3. M. 22. dorſo.

The

The King to the venerable Fathers in Christ, the Archbishops, Bishops, Abbots and Priors, and to the Earls, Barons, Knights and Free-men of *Ireland*, Greeting, whereas for the Marriage of our beloved Sister *Isabel* to the Emperor, and for certain other Matters concerning our Kingdom, we are much indebted to the said Emperor, the Pope, and others, although our Feudataries of *England* have given us considerable assistance; yet we think fit earnestly to
A desire your University; whereas in our urgent necessity you ought to be liberal, and afford us the same bounty. Neither is it easie for us, without your help, to be freed from so great a Burthen of Debts. And therefore according to the Confidence we have in you, we expect a free Benevolence when you shall be thereto required by our Justice of *Ireland*, that you may not only be commended by others, but thereby have us your Debtor for perpetual thanks.

B

Rex omnibus probis hominibus suis de Civitatibus Burgis & Dominicis suis in Hibernia, salutem. Sciatis quod dedimus in mandatis dilecto & fideli nostro M. filio Geroldi Justiciario nostro Hiberniæ quod pro diversis debitis nostris quibus sumus plurimum onerati acquietandis tallagium super vos assideri faciat ad opus nostrum sicut Civitates Burgos & Dominica nostra in regno nostro talliari fecimus & inde vobis mandamus quod eidem Justiciario nostro ad hoc intendentes
C *sitis & respondentes; In cujus rei Testimonium*, &c. Ibidem.

The Cities, Burghs, and Kings Demeasns in *Ireland* Tallfated.

The King to all his good men of Cities, Burghs, and his Demeasns in *Ireland*, Greeting, Know ye that we have commanded *M. Fitz-Gerold* our Justice of *Ireland*, that for the discharging of our great Debts, he sets a Tallage upon you for our use, as we have caused our Cities, Burghs, and Demeasns in our * Kingdom to
D be Talliated. And herein we command you to comply with, and be obedient to our Justiciary; In witness whereof, *&c.*

* *i. e. England*, for *Ireland* was then but a Dominion, and the Kings Title, but *Dominus Hiberniæ.*

Certainly there was no difference between the Cities and Burghs, in the 21 of *Henry* the Third, and the 38 of *Henry* the Third, they were all *Civitates & Burgi Dominici*, the Kings Cities and Burghs, only here they were Talliated by the Justiciary; and in the 38th he urged them to a Free-Gift or Benevolence, as in this year he did the Archbishops, Bishops, Earls, Barons, Knights and Free-men:
E And from thence it can never be proved, that the Cities and Burghs in *Ireland* were then Represented by Citizens and Burgesses, and after the same manner as the Cities and Burghs in *England* now are.

Not to be proved from the *Irish* Records, that the Citizens and Burgesses were Represented in Parliament in the time of *Hen.* 3.

F

The

P. 78.

The Last, or (as he calls it) a Supplemental Argument Considered.

IT is grounded upon the Parliaments of *France*, *Spain*, *Portugal*, *Denmark*, *Sweden*, and *Scotland*, having had in them, from time immemorable, both *de Jure*, and *de Facto*, Delegates and Representatives from Cities, great Towns or Boroughs. It would take up too much time, and swell the Answer to, or Consideration of this Argument, to an unnecessary bulk, to treat here of the constituent parts of these Foreign Councils, Conventions, Parliaments, Diets, &c. at first, and very antiently they were all the same; Emperors or Kings with their Earls, Barons, Bishops and great Officers, as is evident from all the old *German* and *French* Authors. And since Cities sent Deputies in *Germany* and *Italy*, they were only from Imperial Cities, *Berold. Discurs. Polit.* p. 126. but of these he saith little himself.

P. 82.

Seeing therefore he applyeth himself in the management of this Argument, almost altogether to the Constitution of the Kingdom of *Scotland*: I shall follow him, and discover what a wonderful man he is, in the knowledge of the *Scottish* Laws and Antiquities. The first Authority he useth, is an Assize or Statute made in the time of King *William*, Sir-named *Leo*, who began his Reign *A. D.* 1105. in the Fifth of our *Henry* the First, and reigned nine and forty years, and cites the Statutes of the same King, published by Sir *John Skene*, made at *Perth*, where several Laws were ordained, to the observance whereof, *Episcopi, Abbates, Comites, Barones, Thani, & tota Communitas Regni tenere firmiter juraverunt.*

Stat. Will. Reg. fol. 2. c. 7. They are Mr. P's own words

P. 83.

His next and only further Instance which he useth, is the Reign of King *Alexander* the Second, who began it *A. D.* 1214. which was the sixteenth year of our King *John*, and reigned five and thirty years, so as he died 38 *Hen.* 3. from these words, *Statuit Dominus Rex Alexander, Illustris Rex Scotiæ, de Concilio & assensu venerabilium patrum Episcoporum, Abbatum, Comitum, Baronum, ac proborum hominum suorum Scotiæ*: And then this Writer adds, and what the *Comunitas Regni* in King *William*'s Statutes, and the *Probi homines* in King *Alexander*'s were, the League made between the *French* King, and the Crown of *Scotland*, *Anno* 28 *Ed.* 1. clearly shews, and from a Roll in the Tower of *London* of the same date, sayes, it was ratified and confirmed in their Parliament, *per Johannem de Balliolo* then King, *ac Prælatos & Nobiles, & Universitates, & Communitates Civitatum, & Villarum dicti Regni Scotiæ*; and the constant practice ever since hath been, that the Cities and Burghs have sent their Proxies or Representatives to the Parliaments of that Kingdom.

Stat. Alex. 2. fol. 22. c. 2.

P. 83.

The meaning of *Communitas Regni & probi homines* in *Scotland.*

This being what he hath said concerning *Scotland*, I shall instruct him out of his own Author Sir *John Skene*, and other printed Acts of Parliament and Statutes of *Scotland*, and teach him what is meant by the words *Communitas Regni, & probi homines sui*: The Title to the Statutes of King *William* called *Leo* runs thus; *Statuta sive Assisæ Regis Willielmi, Regis Scotiæ, factæ apud Perth, coram Episcopis, Abbatibus,*

Stat. Gulielm. R. fol. 1.

bus, Baronibus, & Aliis probis Hominibus terræ suæ. The Statutes or Assizes of *William* King of *Scotland*, made at *Perth*, before the *Bishops, Abbots, Barons*, and *other Good men* of his Land. *Rex* Willielmus *Statuit apud* Sconam *per commune concilium Regni sui*, Anno Dom. 1209. *Rex* Willielmus *Statuit apud* Sconam *de communi concilio & Deliberatione Prælatorum, Comitum, Baronum, ac Liberetenentium, quod Ecclesia* Scoticana, *& Sancta Religio, & Universus Clerus, in suis Juribus, libertatibus & Privilegiis omnibus, manu teneatur in quiete, pace, & semper sub prefectione Regia.* Ibid. fol. 6. c. 9. Ibid. f. 15 c. 32.

A

King *William* ordained at *Scone* by the Common-Council, and Deliberation of the Prelates, Earls, Barons and Free-holders, that Holy *Scottish* Church, and Holy Religion, and the whole Clergy, should be maintained in all their Rights, Liberties, and Priviledges, in Quiet and Peace, always under the Kings Protection.

B

Item, Statuit quod Comites, Barones & Libere-tenentes Regni, conservent pacem in servis suis; & quod vivant, ut Domini, de terris & redditibus & firmis suis; & non ut Husbandi, *non ut Pastores, Devastantes Dominia sua, & Patriam, cum multitudine Ovium & Bestiarium, Penuriam, Paupertatem & Destructionem in Populo Dei inducentes.* Ibid. c. 33.

C

Also the King ordains, That the Earls, Barons, and Free-holders, do keep Peace and Justice amongst their Servants or Tenents, and that they live as Lords upon their Lands, Rents, and Farms; and not as Husbands and Plough-men, not as Shepheards, wasting their Demeasns or Lands, and the Country, with great numbers of Sheep and Beasts, causing Penury, Poverty, and Destruction amongst the People of God. Here we see the Free-holders were Lords of Mannors at least, and not ordinary People.

Anno Gratiæ 1214. *Apud* Sconam, Alexander *Dei Gratia Rex* Scotorum, *communi concilio comitum suorum, pro utilitate Patriæ detrevit,* Stat. Alex. 2. fol. 21. n. 1.

D

quod omnes Rustici in eisdem locis & villis, in quibus præterito anno fuerunt; hoc anno Agriculturam exerceant, &c. In the year of Grace 1214. *Alexander* King of *Scots* Decreed at *Scone* by the Council of his Earls, that all Rusticks or Ploughmen, that left any Place or Village, should the next year Till or Fallow the Ground there, *&c. Præterea constituit Rex & Principes, ut agrestes, qui amplius quam quatuor vaccas habent, ad quærendum victum sibi & suis, ad sustentationem vitæ, terras sub Dominis suis accipiant, & arent & seminent.* Ibid. n. 2.

E

Furthermore the King and Princes ordain, that Country or Field-men, or perhaps Highlanders which have four Cows for their Livelyhood, and the support of them and theirs, shall take Lands under their Lords, and Plough and Sow them.

Item, Statuit Dominus Rex Alexander *apud* Strivelin *coram magnatibus suis, tam viris Ecclesiasticis quam aliis. Quod de cætero*, &c. Ibid. c. 3.

King *Alexander* ordained at *Sterling* before his Great men, as well Ecclesiasticks as others: That from henceforward, *&c. Statuit Rex per consilium, & assensum totius communitatis suæ, Quod nullus Episcopus, Abbas, Clericus, Comes, Baro, vel aliquis alius de Regno* Scotiæ, *&c.* Ibid. c. 4.

F

The King ordains, by the Counsel and assent of his whole Community; that no Bishop, Abbat, Clerk, Earl, Baron, or any other of the Kingdom of *Scotland*, &c.

Statutum est quod nec Episcopi, nec Abbates, nec Comites, nec aliqui Libere-tenentes, tenebunt curias suas, nisi Vice-comes Regis vel servientes Ibid. c. 14.

Vice-comitis ibidem fuerunt, &c. It is ordained, that neither Bishops, nor Abbats, nor Earls, nor any Free-holders, shall keep their Courts, unless the Kings Sheriff, or his Serjeants were there, &c. This again shews us, that the Free-holders were at least Lords of Mannors.

Of what Persons the Parliaments in *Scotland* do consist.

Now we, to evince clearly what the *Communitas*, *Probi Homines*, and *Libere-tenentes* were, and of what Persons the Parliament in *Scotland* under these various Appellations did consist, I shall produce the Title of a Parliament holden the Thirteenth year of *Robert* the First, who began his Reign *A. D.* 1306. the 31th of our *Edward* the First. A

Statuta Roberti 1. fol. 29.

In Dei Nomine Amen. Robertus *Dei Gratia Rex* Scotorum.

Anno Regni sui Decimo tertio Die Dominica proxima cum continuatione Dierum post festum Sancti Andreæ *Apostoli, subsequentium*; *Residens apud* Sconam, *in plano Parliamento suo, tento ibidem*; *Habitoq; solenni Tractatu, cum* **Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus,** *&* *aliis* **Magnatibus,** *de* **Communitate** *totius Regis ibidem Congregatis, super variis & arduis negotiis, ipsum & Regnum suum tangentibus, atque futuro tangere valentibus: Ad Honorem Dei, & Sanctæ Matris Ecclesiæ, & ad Emendationem terræ suæ, Tuitionem populi, & ad pacem terræ suæ manu-tenendum, & affirmandam. De communi consilio, & expresso consensu, omnium* **Prelatorum, & Libere-tenentium Predictorum** *ac totius* **Communitatis Predictæ**; *ordinavit, condidit, & stabilivit statuta infra scripta, ab omnibus per Totum Regnum suum, perpetuo, & inviolabiliter observanda.* B C

In the Name of God Amen: *Robert* by the Grace of God King of *Scots*, in the 13th year of his Reign, upon Sunday next after the Feast of St. *Andrew* the Apostle, with Continuation of the following days. Residing at *Scone*, in his plain Parliament (so the *Scots* render it) there holden. Having had solemn Treaty with the Bishops, Abbats, Priors, Earls, Barons, and other great men of the Community of the whole Kingdom there met together. Upon sundry and difficult Matters, touching himself and his Kingdom, and such as for the future might concern them: To the Honor of God, and Holy Mother Church, and the mending of his Land, the Safety of the People, and to maintain Peace by Common Council, and expres consent of all the Prelates and Free-holders aforesaid, and of the whole Community aforesaid, hath ordained and established the under written Statutes, to be perpetually and inviolably observed by all People through his whole Kingdom.

The Community of the Kingdom of *Scotland*.

D

E

And further, to shew that all these were Tenents in *Capite*, I shall add another Title of a Parliament in the Time of *Robert* the Third, who began to Reign *A. D.* 1390. in the Tenth of our *Richard* the Second.

Statut. Rob. Tertii, fol. 63.

Parliamentum Domini nostri Roberti *Tertii* Scotorum *Regis illustrissimi, Tentam apud* Sconam *die Lunæ, vicessimo primo* Februarii, *Anno Gratiæ* 1400. *Regni sui undecimo, cum continuatione Dierum subsequentium: Summonitis & ibidem vocatis, more solito,* **Episcopis, Prioribus, Ducibus, Comitibus, Baronibus, Libere-tenentibus,** *&* **Burgensibus,** *Qui de Domino nostro Rege* **Tenent in Capite.**

The Community of *Scotland* were Tenents in *Capite*.

F

The Parliament of our Lord *Robert* the Third, the most Illustrious King of *Scots*, held at *Scone* on Monday the twenty first of *February*, 1400. and in the Eleventh of his Reign, with Continuation of the subsequent days, the *Bishops*, *Priors*, *Dukes*, *Earls*, *Barons*, *Free-holders*,

holders, and *Burgesses*, which hold of our Lord the King in Chief, being called, and summoned thither, according to usual Custom.

Tenents in *Capite*, the constituent parts of the Parliament of *Scotland*.

This Gentleman hath hunted quite through this Book, to find a scrap or two, he thought might, by the sound of the words, serve his purpose, and willfully overlooked what I have here cited. (If he hath patience) the Reader may pause a while, and admire his Honesty, Integrity, Ingenuity, Sagacity, &c.

Having thus shewn the ancient Constitution of the *Scottish* Parliaments, for the Readers satisfaction, I shall further shew when, and how it was altered.

In the seventh Parliament of King *James* the First, held at *Perth*, *A. D.* 1420. there was a Law made, that small Barons, and Free-holders, needis not to come to Parliamentes. The Tenor whereof is, The King with consent of the haill Councel, generally hes Statute and ordained, That the small *Barronnes*, and *Free Tenentes*, neid not cum to *Parliamentes* nor *general Councels*, swa that of *ilk Schirefdome* there be send, chosen at the *head Court* of the *Schirefdome*, *twa* or *maa* wise men after the *largeness* of the *Schirefdome*, out tane the *Schirefdomes* of *Clakmannan* and *Kinrosse*, of the quhilkis ane be send of ilk ane of them, the Quhilk sall be called *Commissares* of the *Schire*, and be their *Commissares* of all the *Schires* sall be chosen ane wise man, and expert called the *Common-Speaker* of the *Parliament*; The Quhilk sall prove all and sundry needis and causes pertaining to the Commons in the Parliament or general Council; The Quhilkis Commissares sall have full and haill Power of all the *Laif* of the *Schirefdom*, under the *Witnessing* of the *Schireffs Seale*, with the *Seals* of *divers Barronnes* of the *Schire*, to hear, treat, and finally to determine all Causes to be proposed in Council or Parliament: The Quhilkis *Commissares* and *Speakers* sall have *Costage* of them of *Ilk-Schire*, that awe *Compeirance* in *Parliament* or *Councel*, and of their Rents, ilk pound sall be utheris fallow to the Contribution of the said Costes. All *Bishoppes*, *Abbots*, *Priors*, *Dukes*, *Erles*, *Lordes* of *Parliament*, and *Ban-rentes*, The Quhilkis the King will be *received* and *summoned* to *Councel* and *Parliament*, be his *Special Precept*. The Title of this Parliament runs thus.

The Laws and Acts of Parliament of *Scotland*, f. 17. n. 102. When and how the Constitution of the *Scottish* Parliament was altered.

In *Parliamento septimo, vel Concilio generali illustrissimi principis Domini Jacobi, Dei Gratia Regis Scotiæ, Tento apud Perth, primo Die Mensis Martii*, A. D. 1427. *& Regni Domini Regis* 23 *cum continuatione Dierum & Temporum, summonitis & vocatis more debito, & solito*, **Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Libere-tenentibus**, *Qui de Domino nostro Rege* **tenent** *in* **Capite**, *& de quolibet Burgo certis Burgensibus, comparentibus omnibus illis, qui debuerunt, voluerunt, & potuerunt commode interesse, quibusdam vero* **absentibus**, *quorum aliqui legitimè* **excusati** *fuerunt, aliis se* **contumaciter** *absentantibus, quorum Nomina patent in Rotulis* **Senarum.** *Quorum quilibet adjudicatus fuit in amerciamento decem librarum, ob suam contumaciam.* 'Tis most clear from this, and the other Titles of Parliaments, that the Commons in *Scotland* were only the Kings Tenents in *Capite*, and are so at this day, according to the Confirmation of this Act of Parliament, in the Eleventh Parliament of King *James* the Sixth, holden at *Edinburgh July* 29. 1587.

Ibidem.

Ibid. f. 290. n. 1. 3.

Our Soveraine Lorde, remembringe of ane gude and lovable *act* maid by his Hieneſſe progenitour King *James* the Firſt, of worthie Memorie, in the *Parliament* halden at *Perth*, the Firſt day of *March*, the Zeire of God, ane thouſand, four hundreth, twenty ſeven Zeires, anent the *Commiſſioners* of ſmall *Baronnes* in Parliament, That his Majeſtie and ſaidis Eſtaites wald ratify and Appreeve the ſame, to have full Effect, and to be put to Execution in time comminge: and of new, Statute, and Ordain for the Mair full Explanation of the ſame A Act, and certain Execution thereof; That *precepts* ſuld be directed forth of the *Chancellarie*, to ane *Barron* of ilk *Schire* firſt, to *Conveene* the *Free-halders* within the ſame Schire, for chuſing of the *Commiſſioners*, as is conteined in the Act. Quhilkis *Commiſſioners*, beinge anis chooſen and ſent to Parliament, the precepts of Parliament, for conveening of Free-halders to the Effect foreſaid, to be directed to the laſt *Commiſſioners* of ilk Schire, quhilkis ſall cauſe chieſe twa wiſe Men, beinge the *Kings Free-Halders*, Reſident *Indwellers* of the *Schire*, B of gude *Rent*, and *Weill Eſteemed*, as *Commiſſioners* of the ſame *Schire*, to have power and to be authorized, as the Act proportis, under the *Commiſſioners* Seale, in place of the *Schireffes*; And that all *Free-Halders* of the *King*, under the Degree of *Prelats*, and *Lords* of *Parliament*, be warned be proclamation, to be preſent at the chooſing of the ſaidis Commiſſioners: and *nane* to have *Voit* in their Election, bot *ſik* as *hes* * *fourtie Shilling Land* in *free-tennendrie*, *halden of the King*, and hes their actual dwelling and reſidence within the ſame Schire, *&c.* C And that the *Compeirance* of the ſaids *Commiſſioners* of the *Schires* in *Parliaments* or general Councels, *ſall Relieve* the *haill remanent ſmall Barrones*, and *Free-Halders* of the Schires, of their *Suites*, and *preſence*, *aucht in ſaids Parliaments*. By this laſt paſſage, and the Title to the ſeventh Parliament of King *James* the Firſt, it ſeems, that the ſmall Barons, Free-holders, or Tenents in Capite, thought it a burthen to them to come to, and remain in Parliaments, and that they were not willing to undergo that trouble, and therefore in all probability D they petitioned they might appear and be repreſented by Commiſſioners.

* Which is now Ten pounds Sterling *per annum* real value. *Preſent State of* Scotland, p. 77.

As to the Burroughs they make the third Eſtate, and do ſend but one Commiſſioner or Burgeſs (except the City of *Edinburgh* which ſends two) which are choſen by the Common Council of the Towns. There are in *Scotland* three ſorts of Burghs, that is to ſay, Royal Burghs, Burghs of Regality, and Burghs of Barony: *The Royal Boroughs*, the *Burgi Dominici Regis*, or *Qui de Rege tenent in Capite*, E *only ſend Commiſſioners to Parliament*, and are in Number Sixty.

Preſent State of Scotland, p. 77, 78, The Burghs make the third Eſtate in *Scotland*. Ibid. p. 127. 131. The Kings Burghs only ſend Commiſſioners to Parliament in *Scotland*.

If I may have the liberty to urge what hath been ſaid concerning the Conſtituent parts of the *Scottiſh* Parliaments, it ſeems to me that from the great affinity there was, and is, between ours and theirs, to be certain, that our and their *Comunitas Regni*, was the ſame, that is, they were the *ſmall Barons*, and *Tenents in Capite*; and that it is highly probable, that when this *Comunitas* left of coming Perſonally to Parliament, and came by Repreſentation, that they F were at firſt repreſented by *two* of their *own number*, ſent from every County, and alſo that it is highly probable that originally the *Burghs* that ſent Members to Parliament, were *Burgi Dominici*, the *Kings* or *Royal Burghs*, ſuch as ever did, and do at this day in *Scotland* only ſend Burgeſſes to Parliament.

The

The Third Levelling Obſervation, *by which he inſinuates a parity of all Men, and makes* Lords Commons, *and* Commons Lords; *I ſhall Examine, and ſhew the Vanity of it.*

FRom the various acceptation of the word *Baro*, and an end or two of *Hiſtory* which he never underſtood, he concludes that under the *phraſe* of **Baronagium Anglie**, both *Lords* and *Commons* were comprehended. The various ſignifications of the word **Baro**, he grounds upon the various meaning of the word **Aldermannus**, and ſays, as there were *Aldermanni Regis*, *Aldermanni Comitatûs*, *Civitatis*, *Burgi*, *Caſtelli*, *Hundredi*, five *Wapentachii*, & *Novemdecimorum*; ſo there came inſtead of them, when that name was changed, or worn out, *Barones Regis*, *Barones Comitatûs*, *Barones Civitatis*, *Barones Burgorum*, *Barones Caſtellorum*, *Barones Hundredorum* ſive *Wapentachiorum*.

Page 108.

Page 109.

Ibid.

But this only is a fancy of his own, for of all theſe **Barons** he hath reckoned up, he cannot ſhew half of them in any Author I ever ſaw, nor can he ſhew any of them taken in the ſame ſenſe, that **Aldermen** were; for theſe were always **Officers** and **Magiſtrates**; So Sir *Henry Spelman*, *Quo nomine Magiſtratus ſemper indicatur*, by which name of **Alderman**, a *Magiſtrate* was always ſignified. And in the ſame Column, *Principes igitur & Rectores Provinciarum*, *Comites*, *Præſides*, *Senatores*, *Tribunos generali nomine alias* atque *alias* **Aldermannos** *appellabant*. They called *Princes*, *Governors* of *Provinces*, *Earls*, *Preſidents*, *Senators*, *Tribunes*, by the general name of **Aldermen**. So the Kings **Alderman** was the Kings **Juſticiary**, the **Alderman** of the **County** was the **High Sheriff**, or other *Great Miniſter* of *Juſtice*. The **Aldermannus** *civitatis*, *Burgi*, ſeu *Caſtelli*, was the **Major**, or **Baylif** of the *City*, or *Town*, and the **Alderman** of the *Caſtle* was the **Caſtellan**, or **Conſtable**, or *Governor* of the *Caſtle*; The **Alderman** of the *Hundred* was the **Centenary**, **Hundredary**, or *Chief Magiſtrate* that had the *Care* of the *Hundred*. But the **Barones Regis** as ſuch, were not *Officers* or *Magiſtrates*, they were not only Great *Barons*, that poſſeſſed Great *Eſtates*, and held of the *King* by **Military Service** in *Chief*; So the **Barones** *Comitatus* were not **Magiſtrates**, but only **Feudal Barons**, and alſo **Milites** and **Freeholders**, that were *Inhabitants* and *Landholders* in the *County*. Nor were the **Barones** *de London*, *Eboraco*, &c. *Magiſtrates* of the Cities, *&c.* but *only cives*, & *homines* de *London*, &c. Citizens and Inhabitants of *London* and *York*, and other **Barons** *then theſe*, and *ſuch as theſe*, he can find none: Nor can he ever ſhew that **Baro** was a Name of **Office**, and generally appropriated to the *Magiſtracy*, as **Aldermannus** was.

Alderman was a word ſignifying an Office. *Gloſſar.* fol. 42. col. 2. l. 20.

Line 33. Dukes, Princes, Earls, which were the Knights Great Officers, were called Aldermen. *Seld.* Tit hon. fol. 505, & 509. *Spel. Gloſſar.* fol. 25. col. 2. Ibidem, fol. 26. col. 1, 2. Ibidem, fol. 69. col. 1.

Baro, not a Word of Office. Ibidem, fol. 70. col. 2.

The Barons of the Exchequer were originally the great Barons of the Kingdom, and thence the Name.

From

From whence it is clear, he understands not the true *acceptation* of these *two words*; but suppose he did, Will he conclude because the word **Barones** signified sometimes the *Great* **Barons**, sometimes the **Milites**, and **Free**-Feudal-**Tenants**, that the **Commons** were part of the **Baronage** of *England*, and comprehended in those words? He may as well say, that all Men of *England* were part of the **Baronage**, because **Baro** signifies a *Man*. Or that every *Cobler*, *Chimney-sweeper*, or inconsiderable Tradesman in **London** are part of the **Gentry** of *England*, because they take upon them, and are called **Masters**, and **Mistresses**. Sure Sir *Henry Spelman* understood the **Baronage** of *England* to be another thing, when he said **Barones** *Classes supra omnes plebeias elati inter Pares regni numerantur.* The **Barons** being raised above all *Orders* of the *Plebeians*, are numbred amongst the *Peers* of the *Kingdom*. And the great *Selden* tells us, what he meant in his * *Notes* upon *Eadmer*, and the very place by our Author cited. The Phrases, saith he, of *Tenentes per* **Baroniam** & *Servitia Militaria* & *Milites* & *Barones Tenentes in Capite de Rege*, are used for the same Persons (*Baro*, also *& qui de Rege tenent in Capite*, are so used) in two *Laws*, the one of *William* the First, the other of *Henry* the Second, touching Excommunication, as is noted upon *Eadmerus*, p. 168. & seq. These are the very words of *Learned Selden*, and therefore in this place of his Notes upon *Eadmer*, which is brought to confirm this *Gentlemans* conceit, he did not mean the **Commons**, or any Ordinary Persons, but the *Tenents in Capite*, or *Peers*. And in another place, he says, the Honorary Title of **Barones**, and *pares Baronum* are equally both *Parliamentary*, and may signifie the whole **Baronage**.

The Learned *Camden* likewise a little after the words he hath cited out of him, speaks thus. *In Chartis & Historiis istius seculi omnes fere Nobiles dicantur Barones, plenaque Honoris illa appellatio, sane tunc erat, &* **nomine Baronagii Anglie, omnes * Superiores quodammodo Regni Ordines**, *Scilicet Duces, Marchiones, Comites, & Barones, continebantur, sed ad summum honorem provenit, ex quò Rex Hen. tertius ex tantâ multitudine, quæ seditiosa & Turbulenta fuit, Optimos quosque rescripto ad Comitia Parliamentaria evocaverit.* In the Charts or Charters, and Histories of that Age (toward the latter end of *Henry* the Third) almost all *Noblemen* were called *Barons*, and that appellation was then full of *Honor*, and in the Name of the *Baronage* of *England*, as it were all the *Superior Orders* of the *Kingdom* (that is to say) *Dukes*, *Marquesses* (meaning such as had those Titles afterwards) *Earls* and *Barons* were contained. But it arrived at the greatest height of an honorary Title since. *Henry* the Third, out of so great a *Multitude*, which was *Seditious* and *Turbulent*, called the best and chiefest of them only by *Writ* to *Parliament*.

These are the most truly *Learned Antiquaries*, whose *Authority* our *Author* says is such, that it would be a *presumption* in him to go about to add any thing. Yet he accounts it no *presumption* to *pick here*, and *there* a *shred* out of them, which *sounds like something* he *fancies*, and to urge it in favor of his own *Whimsey*, against the declared *Minds* and *Intentions* of those *Authors*. And this is the excellency, and perfection, and common practice of this Gentleman, to bring

The Lords Court was *Curia Baronum*, Court of Freeholders, not *Baronis*, and sometimes *Curia Militum*. Ibid m, fol. 68. col. 1. *Tit. Hon.* fol. 575. p. 110.

* The words of *Selden* upon *Eadmer*, are upon the word *Barones*. *Vocabulum nempe alia notatione usurpari quam vulgo, neque eos duntaxat ut hodie significare quibus peculiaris Ordinum Comitiis locus est.* That is, it signifies all Tenants in Capite, as he here explains himself, and not ordinary Men, as our Author would have it. *Tit. Hon.* fol. 570. *Britan.* fol. 122.

* Our Author hath left out the word *Superiores*, and Cites the place thus; *Nomine Baronagii Anglie Omnes quodammodo regni Ordines continerentur*, p. 111. and cites no more.

P. 111.

bring *Fragments*, *Phrases* and *Words* out of *Records* and *Histories*, which sound like, or seem to countenance his *Inventions*, contrary to the true meaning of those *Records*, and right sense of *Historians*. As I have already in many instances shewed, and do desire the Reader with Attention, to take notice of these most notable ones that follow.

A In the 29 of *Henry* the Third, there were generally great Complaints of the **Papal** *Exactions*, and the *King* made sensible of it, upon inquiry found, that the **Pope** annually received from *England* 60000 Marks. *Tunc Dominus Rex cepit detestari insatiabilem Romanæ Curiæ cupiditatem, & totius Regni, imò etiam & Ecclesiæ per eam factas injuriosas occupationes illicitasque rapinas; compositâ igitur per Regni* **Universitatem** *Eleganti Epistolâ in quâ extortiones papales minus execrabiles, & exactiones multiformes* **Legatorum** *ejus, & quorundam* B *clericorum potestate inauditâ fungentium continebantur. Cum quâ* **viri Nobiles** *ac* **discreti** *ad Concilium destinantur gravem super his & præcipuè super exactione Tributi in quod nunquam consensit regni Universitas coram concilio querimoniam reposituri. Electi sunt igitur & ad hoc* **nomine totius Universitatis** *Regni Angliæ ad Concilium Lugdunense Missi, Comes* **Rogerus Bigod, Johannes filius Galfridi, Willielmus de Cantelupo, Philippus Basset, Radulphus filius Nicholai,** C *& Magister* **Willielmus Powerit** *Clericus.*

Anno Dom. 1245. *Paris*, fol. 658. n. 40, 50, & 659. l. 1. at this day 480000 *l.*

Council of *Lyons.*

Ibid. n. 10.

Five Commissioners sent to the Council of *Lyons.* Mr. *William Powerick* was a Lawyer.

Then the King began to detest the insatiable Avarice of the *Court* of *Rome*, the *Injurious Incroachments*, and *Unlawful Rapines* made by it upon the whole *Kingdom*, and the *Church* also. Therefore there was an *Elegant Epistle* composed by the *University* of the *Kingdom*, which contained the *execrable Papal Extortions*, and many *Exactions* of his *Legats*, and of certain Priests executing unheard of Power. With which *Epistle*, *Noble* and Discreet Men were sent to the *Coun-* D *cil*, to make Complaint of these things, and especially the *Exaction* of *Tribute*, unto which the **University** of the Kingdom never gave their consent; there were therefore chosen, and for that purpose sent in the *Name* of the *University* of *England* to the *Council* of *Lyons*, *Earl Roger Bigod*, *John Fitz-Geofry*, *William de Cantelupe*, *Philip Basset*, *Ralph Fitz-Nicholas*, and Mr. *William Poweric Clerk*. And our Author adds **Milites**, after the last four Lay-men, as he finds it in *Mat.* of *Westminster*, by which I suppose he thinks he hath E an advantage, because he thereby makes it appear, that the *Milites* were part of the **Universitas Regni** *Angliæ.*

P. 112.

Fol. 321. n. 30.

I do not deny it, for the great **Milites** were often stiled *Barons*, and *Barons Milites*. *Nam* **Miles** (saith Sir *Henry Spelman*) *quem* Baronem *vocabant non à* Militari Cingulo (*quo equites creabantur*) *sed a* **Militari feodo** *quo alias possessor &* **libere Tenens** nuncupatus *est*, nomen sumpsit. For the name of *Miles* was not from the Mi- F litary Girdle, or Cincture, by which Knights were created, but from the *Military Fee* which the *Miles* injoyed, from whence he was sometimes called a *Free-tenent*; Such as had *Lands* given them for, or such as held *Lands* by *Military Service*, and did *Homage* and *Fealty* to those, of whom they held their Lands. And in this sence *Mat. Paris* calls all the Temporal *Nobility* **Milites**; When in the Parliament 37 of *Henry* the Third, he says, *à* **Militibus** *concessum est*

Glossar. fol. 72. col. 1. See the same derivation of *Miles. Cambd. Brit.* fol. 123. The name of *Miles* from the Military Fee.

Fol. 866. n. 20. The Temporal Nobility, all called *Milites.*

est scutagium illo Anno ad Scutum tres Marcæ; at which time the *Clergy* had given the *tenth part* of their Revenue for three years. A brief Account of these four Persons, what they were, will inform us, that Barons and Great Men, were, in Historians, called simply *Milites*, in the Notion Sir *Henry Spelman* hath given of the word.

Dugd. Baronage, Tom. 1. fol. 706. Col. 2. fol. 707. col. 1.

1. *John Fitz-Geofry* was Son and Heir to *Geofry Fitz Piers Earl* of *Essex*, and Father to *John Fitz-Geofry*, and Grandfather to *John Fitz-John* the Great *Rebel*, that joyned himself with *Simon Montfort*. A

Ibid. fol. 732. col. 2.

2. *William de Cantelupe* was a *Baron*, or Great *Tenent in Capite*, paid *Ayd* this very year towards the Marriage of the *Kings* Eldest Daughter, for 27 *Knights Fees*, and three parts. B

Ibid. fol. 384. col. 1, 2.

3. *Philip Basset* was at this time a great *Baron*, and made *Justice* of *England*, 45 *Hen.* III.

Cl. 24 *Hen.* 3. m. 10. Dors.

4. *Ralph Fitz-Nicholas* was at least a *Great Tenent in Capite*, and Father to *Robert Fitz-Nicholas*, who, among other *Great Tenents in Capite*, was summoned to appear at *Chester*, on Monday before the Feast of St. *John Baptist*, 42 *Hen.* 3. to March against *Leuellin Prince* of *Wales*: He was a *Baron*, *vide Mat. Paris*, *fol.* 590. *n.* 40. C

These were the four **Barons** that *Mat.* of *Westminster* calls **Milites**, and our *Author* would have *common persons*, but by what right let the Reader Judge.

Mat. Par. fol. 658. n. 40.

Ibid. 29 *Hen.* 3. 1245. *Fulco Fitz-Warini.*

By what precedes the Account of the Election of this *Earl*, and four *Barons* with their **Secretary** *Poweric*, by the **University** of the *Kingdom* to go to, or represent them at the *Council* of *Lyons* as *Commissioners*, it appears they were elected in *Whitsun-week*, and upon the 30th day of *June* next following, at a full **Tourneament** intended to have been held or exploited at **Luton** and **Dunstable**; which was forbidden by the *King*. * **Fulco Fitz-Warin** was sent *ex parte* **Universitatis Regni** *ad Magistrum Martinum Papæ Clericum*, &c. on behalf of the *University* of *England* to *Master Martin* the *Popes Clerk* (who was his Legat and Instrument of the great Exactions aforesaid) which *Fulco* beholding him with a stern countenance, bad him immediately to go out of *England*; to whom Master *Martin* said, Who commands me to do this? Is it from your self? To whom *Fulke* answered, *hoc tibi per me mandat* **Armatorum**, *qui nuper apud Luitoniam & Dunstapliam apparuerunt*. **Universitas**. The *University* of Military Men, that lately appeared at *Luton* and *Dunstable* by me do command you to do this; and bad him again be gone, or he and his Followers would in three days be cut in pieces. *Master Martin* much terrified and affrighted at this Salutation, went immediately to the King, and told him what he had heard, and asked him whether it was done by his Authority. The *King* told him he was not the Author of any such thing, *But* my **Barons** (saith he) *can scarce contain themselves from an Insurrection against me, for that I have so long suffered your Depredations and Injuries in my Kingdom.* D E F

* He was one of the Great Barons Marchers towards *Wales*, *Dugd. Bar.* Tom. 1. fol. 444. col. 2. Salutation of the Popes Legat.

Paris ut supra. n. 20. The University of Armed Men.

Ibid.

The

The Story makes it plain, who were the **Universitas Regni**, to wit, the **Barons**, or the **Universitas Armatorum**, the *University* of *Armed* or *Military men* convened to hold a full Torneament, who the *King* calls **his** *Barons.*

Note the University of the Kingdom were the Kings Barons.

And who also the **Universitas Regni** were that instructed their *Procurators* to declare in the *Council* of *Lyons* as aforesaid, that **they** never *consented* to the *exaction* of *Tribute* by the Pope; 'tis very plain from the complaint of **William Powerie** their **Procurator** or *Orator* at the *Council* of *Lyons* delivered in these words.

He was a Lawyer.

Assidentibus ibidem Anglicanæ **Universitatis** *Procuratoribus prænominatis, Magister Willielmus de Poweric eorum* **Procurator** *assurgens gravamina Regni Angliæ ex parte* **Universitatis** *Angliæ proponens; conquestus est graviter. Quod Tempore Belli per curiam Romanam extortum est tributum injuriosè in quod nunquam* **Patres Nobilium** *Regni vel* **ipsi** *consenserunt, nec consentiunt, neque in futurum consentient, unde sibi petunt exhiberi justitiam cum Remedio.* The Procurators of the University of *England* beforenamed sitting in the Council, Master *William Poweric* their **Procurator** stood up, and propounded the grievances of the Kingdom of *England*, on the behalf of the **University** of *England*, complaining grievously that in the time of War there was a Tribute injuriously imposed on the Kingdom by the Court of *Rome*, to which the * *Fathers* of the **Noblemen** of the *Kingdom*, nor they *themselves* never consented, nor do, or ever shall consent, upon which they crave *Justice* with *remedy.* To which complaint the **Pope** making no Answer, *William Poweric* thereupon produced an *Epistle* which declared the many *Extortions* made in *England* by the *Roman Court*, thus directed.

Ibid. fol. 666. n. 40. A Secretary to the other four.

*The University of *England* that sent these Procurators, and made this complaint, are called here the Noblemen of the Kingdom, that craved Justice.

Reverendo in Christo Patri Innocentio Dei gratia summo Pontifici, **Magnates & Universitas** *Regni*, &c. To the Reverend Father in Christ, *Innocent* by the Grace of God *Pope*, the Great Men, and **University** of *England*, &c. What this *University* was, that made this complaint we have just now heard.

Ibid. n. 30.

From this *Council* the **Pope** wrote to the *Bishops* and *Patrons* of Churches through *England*, and to the King, that they should have satisfaction in all their Grievances; yet not performing his promises, *medio Quadragesimæ videlicet die quâ cantatur* **Letare Jerusalem**, *Edicto Regio convocata, convenit ad* **Parliamentum generalissimum** *totius Regni Anglicani* **totalis** *Nobilitas Londini, videlicet* **Prelatorum** *tam* **Abbatum & Priorum**, *quam* **Episcoporum, Comitum** *quoque &* **Baronum** *ut de statu regni jam vacillantis efficaciter, prout exegit urgens necessitas contrectarent.* In the middle of *Lent* (that is to say) on the day on which the **Hymn**, *Lætare Jerusalem* was usually sung, being called by the *Kings Writ*, there did meet at a most *general Parliament* at *London*, the *whole Nobility* of the *whole Kingdom*, that is to say of the *Prelats*, as well *Abbats* and *Priors*, as *Bishops*; and also of the *Earls* and *Barons*, that they might treat effectually of the unconstant state of the Kingdom, according to the *urgent necessity* of it.

Ibid. 696. n. 10.

Ibid. l. 1.

A most general Parliament which consisted only of Bishops, Abbats, Priors, Earls, and Barons.

Ibid. 698. n. 40. The King confers with the Bishops apart, and the Earls and Barons apart.

In this very **Parliament** the King confers with the **Bishops** by themselves, the *Earls*, and *Barons* by themselves, about this Business of the **Pope's** not keeping his Promises; and certainly if there had been then any *Commons* in this *Parliament* he would have also conferred with them about the same matter.

Ibid. 698. l. 40. A. D. 1246. 30 *Hen.* 3.

Ibid.

The *Historians words are, Convenientibus igitur ad Parliamentum memoratum totius regni* **Magnatibus**, *Die videlicet qua cantatur* **Letare Jerusalem**, *in primis aggressus est Dominus Rex ore proprio Episcopos per se, postea vero* **Comites** *&* **Barones**, deinde autem **Abbates & Priores** videlicet *supra* his pro quibus miserat Nuntios suos solempnes ad *Concilium Lugdunense*, &c. A

Ibid. f. 699. n. 20.

The result of these Conferences was, that yet for the *reverence* due to the **Apostolick** *See*, they should again *supplicate* the **Pope** by Letters, to remove the *intolerable grievances* and *importable yoak*. B

Ibid. n. 30. Ibid. fol. 700. n. 10. Ibid. n. 50.

And this they do according to the *Kings* separate Conferences with them. The **Bishops** write by **themselves**, the **Abbats** and **Priors** by **themselves**, and the **Earls**, **Barons**, &c. by themselves to the *Pope*; and if there had been any **Commons** as at this day, most certainly they would likewise have wrote to the *Pope*, as well as the other **constituent** parts of this *Parliament* did.

C

P. 114. There were then very many more Earls than these eight here named.

Our Author very cunningly recites the Directions of the last Letter only of the *Earls* and *Barons*, &c. to the *Pope*, *Sanctissimo, &c. Devoti filii sui Comes Cornubiæ, Richardus S. de Monteforti Comes Legrecestriæ, De Boun* or *Bohun Comes Herefordiæ & Essexiæ R. le Bigod Comes Northfolkiæ. R. Comes Gloverniæ & Hartfordiæ. R. Comes Wintoniæ. W. Comes Albamarliæ. H. Comes Oxonienſis, & alii totius Regni Angliæ Barones Proceres & Magnates, ac Nobiles Portum Maris Habitatores, nec non & Clerus & Populus Universus Salutem*, &c. And takes no notice of the other Letters from the Bishops, or Abbats and Priors, or those of the King, one to the Pope, * another to the Cardinals upon the same subject. And then tells us, that *Mat. Paris* calls this a Parliament, truly citing the place of that Author, *fol.* 698. *n.* 40. and but these words only, *Convenientibus igitur ad Parliamentum totius Regni* **Magnatibus**, and applies them to the words above written, and would have the *body* of the people of *England* included in the **Magnates**. But if he had intended to have dealt candidly with his Readers, he should have let them know there were the **Magnates** *particularized*, and that they were the *very* **Bishops**, the *very* **Earls**, and **Barons**, the *very* **Abbats** and **Priors**, with whom the *King* had **separate conference**, who jointly agreed every **Order** of them, should (besides the *King*) write particularly to the **Pope** about their *grievances*, as we have said before. D E

* *Paris ut supra*, fol. 701. n. 20, 30. P. 114. Our Author falsly applies History.

Constituent Members of that Parliament.

F

Nor were these **troup** of **words** here drawn up in this Letter to any other *purpose* than to make an *impression* upon the **Pope**, and make him sensible what a general dislike the *Nation* had of his *exactions* and *incroachments*, and to induce him to a *compliance* with their *desires*, the *Multitude* not being any ways *parties*, or *privy* to the *writing* of the *Letter*; for the **clamour** of the People was a great

great Argument used in all these *Letters* to *affect* the **Pope**, how *Ingrateful* his *impositions* were to the *Nation.* But in this of the *Temporal Barons* more especially, who address themselves to the **Pope** by *Petition, inforcing* it by the **Clamour** of the *people*; *implorantes etiam humiliter & devotè quatenus ob spem retributionis divinæ, voces clamantium post vos dignemini misericorditer exaudire, & gravaminibus, injuriis & oppressionibus* **Regno Anglie**, *& Domino nostro Regi multipliciter impositis, ac illatis, velitis salubre Remedium adhibere, alioquin necesse est ut veniant Scandala* **clamore populi** *tam Dominum Regem quam nos intolerabiliter impellente.* That is, We humbly and obsequiously implore, that for the hope of Divine Retribution, you would mercifully vouchsafe to hear the Petition of such as cry after you, that you would apply a wholesome *Remedy*, to the *grievances*, *injuries*, and *oppressions*, which are many ways imposed upon the *Kingdom* of *England*, and our Lord the King, otherwise of necessity Scandals will come, by the **clamour** of the **people** intolerably urging as well the Lord the **King**, as **our selves.**

The Clamour of the people used as an Argument to the Pope, *&c. Paris* fol. 701. n. 10.

Ibid. n. 20.

The King in his Letters to the Pope about this matter, tells him, the *clamour* of the great Men, as well of the *Clergy* as *Laity*, was such as he could not indure to hear it, *verum* **Clamorem** *incomparabilem* **Magnatum** *Angliæ, tam* **Cleri** *quam* **Populi** *non possumus obaudire.*

And in his *Letters* to the *Cardinals* touching the same *affair*, he lets them know, that how great soever his *affection* was toward the *Roman Church*, yet he could not by dissimulation pass by the *clamour* of **his** *Great Men* of *England* as well of the *Clergy* as *Laity* against the **Popes** *Oppressions.* **Clamorem Magnatum nostrorum** *Angliæ tam* **Cleri** *quam* **Populi** *clamentes super Oppressionibus*, &c. *non possumus dissimulando pertransire.*

Note the great Men of *England*, as well Clergy as Laity, were the Kings *Magnates.* Ibid. n. 30.

From this *general* **Clamour** of the *People*, and not from their *being* **Parties**, it was that the beginning of the Letter from the **Baronage**, or as 'tis in the *Margin*, the **University** of *England* was stuffed with so many *words* and *phrases* to awaken the **Pope**, and incite him to redress the grievances.

Ibid. fol. 700. n. 50.

In the rear of all these, and within the time of the 49 *Hen.* 3. he brings a *Record* to patronize this conceit of his about the **Baronage** of *England.*

P. 114.

Rex Abbati de Sancto Edmundo Salutem; cum pro oppressionibus innumerabilibus factis in regno nostro per Ecclesiam Romanam ob quam **Magnates** *nostri ad sedem Apostolicam appellarunt & quodam* (a) **pro ipsius** *& pro* **Universitate Baronagii** *Angliæ ad Concilium in brevi celebrandum, ad Appellationem suam prosequendam duxerint destinandos.*

Cl. 29 *Hen.* 3. m. 8. dors.

(a) Here he hath mended the Record, and in stead of *de ipsis*, as it is in the Record, he hath put *pro ipsis*, and added the Particle *Et* immediately after it, which is not in the Record, to serve his purpose.

A Mandate to the Abbat of *St. Edmunds-Bury*, against the oppressions of the Church of *Rome*.

This *Record* was a Mandate to the *Abbat* of *Bury*, for restraining the **Popes** Legat, his Clerk **Mr. Martin**, for gathering any *Papal Subsidies* in his *Jurisdiction*, or collating any person to Benefices without the *Kings* knowledge, until the *Messengers* sent by the **Baronage** to the *Council* of *Lyons* were returned, or sent answer what was to be done. The *Record*, as 'tis found in the **Roll**, I here transcribe it word for word.

A

Cl. 29 *Hen.* 3. m. 8. Dors. Note, *Magnates de ipsis pro Universitate*, not *pro ipsis & Universitate*, as our Author hath made it.

Rex Abbati de Sancto Edmundo Salutem; cum pro oppressionibus innumerabilibus factis in regno nostro per **Ecclesiam R manam**, *ob quam* **Magnates** *nostri ad Sedem Apostolicam appellâruut, & quosdam* **de ipsis** *pro* **Universitate** *totius* **Baronagii** *ad Concilium Brevi celebrandum, ad Appellationem suam prosequendam duxerint destinatos, &c.*

These *Nuntii* or *Messengers* which were **de ipsis**, of the Great Men themselves, I have shewn to be *Earls* and *Barons*, (that is to say) **Earl Roger Bigod, John Fitz-Geofry, William de Cantelupe, Philip Basset**, and **Ralph Fitz-Nicholas**, all four *Barons*; and if any Man that considers the *Record* as I have truly related, without his **Alteration** and **Amendments**, cannot but judge the meaning of it to be against his **whimsey**.

B

I shall give him two or three *Proofs* more, that the **Commons** of *England*, as now understood, could not be a part of the **University**, or which is more, the **Common University** of *England*; and so not part of the **Baronage**, nor were as at this day *represented* in *Parliament*.

C

Fol. 58 r. n. 20, 30.

(*a*) See before the Summons to the Archbishop of *York*, 26 *Hen.* 3. to be at *London* 15 days after *Hillary*, which is 28 *Jan.* and was the Summons to this very great Council. (*b*) He was the Kings Brother.

Ann. Dom. 1242. (saith *Mat. Paris*) on *Tuesday* before the *Purification* of *V. M.* the *Archbishop* of *York*, *and all the Bishops of* England, *the Abbats, and Priors by themselves, or Proxies, and also all the Earls, and almost all the Barons of* England *met at* Westminster, by the *Kings* (*a*) *Writ* to hear his Pleasure, and the Business for which they were called, the King sent to them, *Solennes Nuntios*, **Dictum Dominum Eboracensem, & Dominum Comitem Richardum & Dominum Walterum de Eboraco & Præpositum** *de Beverlaco*, his *Commissioners* or *solemn Messengers*, the said *Archbishop*, (*b*) *Earl Richard*, and *Walter de Eboraco*, *Provost* of *Beverley*, to ask their advice, and acquaint them with his intentions. *Tandem dicti Episcopi, Abbates & Priores, Comites & Barones magno inter eos tractatu præhabito Domino Regi per* **prædictos Magnates** *dederunt Consilium*, &c. At length the said *Bishops*, *Abbats*, and *Priors*, *Earls*, and *Barons*, after a great Consultation between them, gave advice to the *King* by the *said great Men*, &c. (which is too long to be inserted here.) *Et cum dicti Magnates nuncii istud Domino Regi nunciassent Responsum, redeuntes ad* **Baronagium** *dixerunt, Quod in parte sufficiens dederunt Domino Regi Responsum, sed Dominus Rex vult scire*, &c. and when the said Great Men the *Commissioners* or *Messengers*, had Reported that **Answer** to the *King*, they returned to the **Baronage**, and told them, That in part they had given the *King* a sufficient answer, but the *King* will know, *&c.*

D

Ibid, fol. 582. n. 10.

Note this passage.

E

F

What clearer proof can there possible be, that all the **Bishops** of *England*, all the **Abbats** and **Priors**, and all the **Earls** and Barons of

of *England*, were only the **Baronage** of *England*. For they were only those that met at *Westminster* by the Kings Writ, they were only those that received the Message from the Kings Commissioners, and consulted about it, they were only those that gave their advice upon that Message, and answer to it, they were only those, and could be no other, which are here called the **Baronage**, To whom the **Great Men** the *Kings solemn Messengers* or *Commissioners* returned, after they had reported their **answer** to the *King*, and **told them** it was but in part sufficient.

Who and what persons were the Baronage.

Eodem An. (saith the Historian again) *convenerant Regiâ summonitione convocati* **Londinum Magnates** *totius Regni*, **Archiepiscopi, Episcopi, Abbates, Priores, Comites, & Barones.** *In quo Concilio petiit Rex ore proprio, in præsentiâ* **Magnatum, in Refectorio Westmonasterienſi**; *Auxilium sibi fieri pecuniare. Cui fuit Responsum quod super hoc tractarent, recedentesque* **Magnates** *de Refectorio, convenerant* **Archiepiscopi & Episcopi, Abbates & Priores** *seorsim per se, superque hoc diligenter tractaturi; Tandem requisiti fuerunt ex parte eorum* **Comites & Barones**, *si vellent suis Consiliis unanimiter consentire, in Responsione & provisione super his facienda. Qui Responderunt, quod sine* **Communi Universitate** *nihil facerent; tunc de* **communi assensu** *electi fuerunt.* **Ex parte Cleri** *Electus Cantuariensis, Wintoniensis, Lincolniensis & Wigornienſis Episcopi.* **Ex parte Laicorum** *Richardus Comes Frater Domini Regis, Comes Bigod, Comes Legr. S. de Monteforti & Comes Mareschallus W.* **Ex parte** *vero* **Baronum** * *Richardus de Montfichet & Johannes de Bailloil, & de Sancto Edmundo & Rameseia* **Abbates**; *ut quod* **isti duodecim** *providerent in* **Communi** *recitaretur, nec aliqua forma Domino Regi ostenderetur authoritate Duodecim, nisi omnium* **Communis assensus** *intervenirent.*

Fol. 639. n. 20. A. D. 1244. 28 *Hen.* 3.

Note who were usually and regularly esteemed *Magnates*.

* Two great Barons See *Dugd. Baronage*, Tom. 1.

In the same year there were called together by the *Kings Summons*, the **Great Men** of the whole *Kingdom*, the *Arch-Bishops, Bishops*; *Abbats*, *Priors*, *Earls*, and *Barons*. In which *Council* the *King* by his own Mouth, in the presence of the Great Men, in the *Refectory* at *Westminster*, desired a Pecuniary Aid; to whom it was answered, that they would treat about that matter; and the **Great Men** retiring out of the *Refectory*, the *Arch-Bishops, Bishops, Abbats*, and *Priors*, met and treated by themselves. At length the *Earls* and *Barons* were **asked**, if they would *unanimously consent* to the **Resolutions** they had taken in **answering** and making **provision** for what had been demanded of them; who answered, That without the **Common University** they would do nothing. Then by *Common assent* there were elected on **behalf** of the **Clergy**, the *Elect* of *Canterbury*, the *Bishops* of *Lincoln*, *Winchester*, and *Worcester*; on **behalf** of the **Laity** *Earl Richard* the *Kings Brother*, *Earl Bigod*, *Earl* of *Leycester*, *Simon Montfort*, and *Earl William Marshall*; for the **Barons**, *Richard Montfichet*, and *John Baliol*, and the *Abbats* of *Bury*, and *Ramsey*, that what they twelve should resolve on, should be recited in *Common*; and that no form should be shewn to the *King* by *Authority* of the twelve, which had not the **Common** *assent* of all.

An. 1244. 28 *Hen.* 3.

The Common University.

The Commons not comprehended in the Common University.

In this *Parliament* the several *orders* of men that were the **constituent parts** of it, were only the **Bishops, Abbats**, and **Priors**, the

the **Earls** and **Barons**, and *all these* put together, were termed the **Common University**, which is more comprehensive than *University* simply taken. If the **Commons** as at this day represented, had been there, we must have had some mention of them one way or other, or of a **Committee** of them, as well as of the **Committees** of the *other Orders*, which made up the *general* **Committee** of *twelve*, for it is **plain** here beyond doubt, that they were not comprehended in the **Common University.** A

Fol. 981. n. 50. The Noblemen of the Kingdom with the King at *Christmas.*

The same Author reports, that *An. Dom.* 1259. *fuit Rex Henricus ad* **Natale** *Domini Londini, ubi magna sollicitudine tractatum est inter* **nobiles** *Regni.* King *Henry* was at *Christmass* at *London*, where the **Noblemen** of the **Kingdom** treated with great solicitude, how keeping to their resolution they might satisfie the desire of *Richard King* of *Almaine*, which was very great and earnest to come into *England.* B

Ibid. fol. 682. n. 50. Feast of St. *Hillary*, Jan. 13. The Council of the Baronage, what it was. (a) *Peter of Savoy* was the Queens Uncle, and Earl of *Richmond.* *Paris* fol. 559. n. 30. (b) *John Mansell* was the Kings Clerk, Chancellor of St. *Pauls*, and his principal Councellor. *Par.* fol. 616. n. 40. 859. n. 30.

A little afterwards the same persons, *Circa festum Sancti Hillarii habito* **Concilio Communi** *& deliberatione diligenti super adventu* **Regis Almannie** *Richardi in Angliam* **Nuntios solemnes** *in Occursum suum destinarunt, videlicet* **Episcopum Wigornien sem, Abbatem** *Sancti* **Edmundi, Petrum de Subaudia, Johannem Mansell;** *ut Idem Rex ipsos certificaret de causâ adventûs tam subiti tamque inopinati, & de morâ suâ in Anglia.* **Comes** *autem* **Legrie Simon,** *non sine multorum admiratione, in partibus adhuc transmarinis morabitur, undè in magnâ parte fuit* **Concilium Baronagii** *mutilatum.* That is, about the Feast of St. *Hillary*, upon a *Common Consult*, and great deliberation, concerning the coming of *Richard King* of *Almaine* into *England*,, they sent *Messengers* or *Ambassadors* to meet him. That is to say, the *Bishop* of *Worcester*, the *Abbat* of *St. Edmundsbury*, (a) *Peter* of *Savoy*, (b) and *John Mansell*, to expostulate the cause of his so sudden and unexpected coming, and to understand how long he would stay. But *Simon Earl* of *Leycester*, to the admiration of many, stayed yet beyond Sea; by which means the **Council** of the **Baronage** was not compleat. C D

Ibid. fol. 983. n. 30.

And of these very **Ambassadors** or **Solemn Messengers** *it was*, that the *Historian* **says**, *Nuntiis solemnibus a* **Communitate Anglie destinatis** *Ipse Rex Alimanniæ, nimis torvo vultu & verbis minacibus Respondet*, &c. The *King* of *Almaine* answered the **Messengers** or **Commissioners** sent by the **Community** of **England** with a stern countenance, and threatning words, *&c.* E

The Noblemen the Community of *England.* *Paris ut supra.*

By these passages it is very clear and evident, that the **Noblemen** of *England*, and **Council** of the **Baronage**, were the **Community** of **England.** For the **persons** that met at *London*, and **treated** about this **Case**, and **chose** and **sent** the **four Messengers**, were the **Noblemen** of *England*, and the **Council** of the **Baronage**; and yet it is said these very Messengers were sent from the **Community** of **England**; so that the **University** of the **Baronage**, the **Community** of **England**, and **Common University**, did signifie the same thing, and were sometimes taken for a **great appearance** of the **Lay-Nobility** only, sometimes for all the **Orders** of the **Nobility** put together. F

And

And further the **Communitas Anglie** in this very place is called or explained by **Nobiles Anglie**, and **Barones Anglie**, the *Noblemen* or *Barons* of *England* no less than **four** times within less than **forty Lines** next following upon the same side of the Leaf. Ibid.

To this may be added that our Author hath very ill luck that there cannot be found any one **Commoner** as at this day understood, A that was a **Commissioner** or **Messenger** imployed in any publick business mentioned in, or that was a **Witness** or **Party** to any of the *Records*, *Publick Letters* or *Instruments* he hath cited. See more of this matter in the *Glossary* in the word *Communitas*, &c. P. 115.

He produces two instances more, in the Reigns of *Edward* I. and *Edward* III. to shew that **Parliaments** since *Henry* III. have sent Letters to the **Pope**, when he attempted to invade the Rights of the *Crown*. But these I pass by, being beside the Controversie, B and beyond the time limited for the decision of it; seeing it is without doubt, that then the **Commons** were a **Third Estate**, as at this day, or as he calls them, an *Essential* or *constituent* part of the **Parliament**, yet doubt not but if it were any thing to the purpose, to make it appear, that the whole **Community** of the *Kingdom* of *England*, for which the **Barons** there named set to their *Seals*, to that *Letter* directed to the **Pope**, 12 *Febr.* 29 *Ed.* I. 1300, at **Lincoln**, were the **Community** of **Barons** only. There being at that C time many *Earls* and *Barons* whose Seals are not put to that Instrument.

I will conclude this Answer to his third Observation with the same words (as near as I can) our Author concludeth the Observation it self.

Certainly the *difference* and great *variety* of *words* and *phrases*, P. 121, 122. D by which both the ancient *Historians* and *Records*, have in their several ages and times expressed and denoted the *Communia Concilia Regni*, or **Parliaments**, and their constituent parts being not well observed and considered by our *late Author* (who understands them as if they signified what the word *Parliament* now doth) hath endeavour'd to impose upon our *Historical Faith*, and propagate to posterity many *palpable* and **gross** *Errors*, from whence great and unkind *clashings*, and *diversities* of *Opinions* amongst men may have E their *sourse* and *spring*, nay even between *Prince* and *People*. The Historical Faith of the People abused by the Author.

F

The

The Appendix *Considered.*

Page 129.

IN this *Appendix* he endeavours to clear a material Objection, as he says *offered* him by some *Friends*, which is, That the **Commons**, or People of *England*, were from the time of the **Norman** *Conquest*, represented by such as held of the *King* in *Capite*, until the 49 of *Hen.* 3. and then by two *Knights* for each County, and certain *Burgesses* for several *Burghs*, and *Barons* for the *Cinq-Ports*. A

'Tis probable the Commons were not at all represented before 49 *H.* 3. Pag. 1, 2, 3, and 74.

For my part I cannot see how this comes to be an Objection, if the *Commons*, as now understood, were not at all represented (as for ought I can find, I think they were not.) He hath undertaken to prove, that the **Commons** of *England* were represented by *Knights*, *Citizens*, and *Burgesses*, Elected and sent by those they represent, and that the **Commons**, or *Freemen* of *England*, as now called, and distinguished from the *Lords*, were an *Essential* and *Constituent* part of the Great *Councils* and *Parliaments*, during the *Brittish*, *Saxon*, and *Norman Governments*, which, if he had done, he need not have heeded what had been said about their being represented by *Tenents* in *Capite*, nor can he ever prove they were represented the same way he affirms, by disproving, they were represented by the *Tenents* in *Capite*. B C

The Authors Conceit of *Barones Regis*, & *Barones Regni*, p. 130.

But this was not so much intended for an *Objection*, as to Usher in an Opinion, and Conceit of his own (which may be of very dangerous Consequence to the *Nation* and *Government*:) that there anciently were **Barones Regis**, and **Barones Regni**, and so *milites* & *libere Tenentes* de *Rege*, & *Milites* & *Libere Tenentes* de *Regno*; a sort of **Barones Milites**, and *Free Tenents* certainly he means (or nothing) that were *sui juris*, and had no dependency upon the *Government*. D

Page 131.

His Pretence for that Fancy.

First, To make this *Fancy* plausible, he tells us, that the Ancient *Chronicles* of the *Kingdom*, say, that both before and after the *Conquest*, the *Kings* of *England* held their *Court* three times in every year, at *Easter*, *Whitsontide*, and *Christmass*; And then the *Crown* was attended with most of those *qui de Rege tenuerunt in Capite*, which held of the *King* in Chief. This was called *Curia Regis*, the Kings Court, where matter of right between the *Kings Tenents* was determined. But, under favour (saith our Author) this was not the *Commune Concilium*, or *Parliament*, as we now call it. But when they, or Contemporary *Historians* take notice of the meeting of the *Commune Concilium Regni*, or *Parliament*, then their Expressions alter, and say, that *Rex ascivit*, Ordericus Vitalis, fol. 680. *Ex præcepto Regis convenerunt*, Eadmerus. *Rex Sanctione sua adunavit*. Flor. Wigorn. and many such like Expressions, which shew, it was not held **ex more**, of Custom; yet true it is, *Kings* did often *Convene*, or *Summon* the *Common-Council* of the Kingdom at one of the said Feasts, being a *great Conveniency to the Tenents in Capite*. E

It is a Precarious Whimsey. F

The

The **whole**, as he hath delivered it, is **precarious**, and he cannot evince the truth of it from any good Authority; And the contrary to it, that is, that the **Barones Regis & Regni**, were the same persons; and that usually the **Barons**, of what quality soever, did repair to the *Kings Court* at **Christmas**, **Easter**, and **Whitsunday**, doth appear to have been the *Custom* of those times he speaks of, from these *Testimonies* of *Ancient Historians.* It is a Precarious Whimsey.

A In a *Chirograph*, or *Chart* of Confirmation of the Lands to *Croyland Abby*, by King *Edgar*. *Sancitum est hoc in Anno Dominicæ Incarnationis* 966 *præsentibus Archiepiscopis, Episcopis Abbatibus, & Optimatibus* **Regni mei** *subnotatis*; This was done in the year of our Lords Incarnation 966, in the presence of the Arch-Bishops, Bishops, Abbats, and Chief Men of my Kingdom undernoted; And then, after the King, in the Subscription, follows the Arch- *Ingulph*, fol. 501. b. n. 30, 40.

B Bishops, Bishops, Abbats, Dukes, and Thanes. And in the same year King *Edgar* confirmed the Priviledges of that *Abby* by **Charter**; *Privilegium illud Sancitum est in presentiâ Regis Edgari Prelatorum* **Procerumque Suorum**, *Anno Dominicæ Incarnationis* 966, *apud London Collectorum.* That Priviledge, or Charter of Priviledges was confirmed in the presence of *King Edgar*, his *Prelats*, and *Noblemen* met at *London*, in the year of our Lord 966. And Ib dem, fol. 502. a. n. 30, 40.

C then after the King, in the Subscription, the **same persons** follow, and in this *Chart* are called **His Prelats**, and **Noblemen**, which in the former *Chart* were called, the *Bishops*, *Abbats*, *and Chief Men* of **his Kingdom.**

Celebratum est Concilium in Ecclesiâ Beati Petri in occidentali parte juxta Londoniam sita communi consensu Episcoporum Abbatum & Principum **totius Regni** *& huic conventui affuerunt* **Primates regni utriusque Ordinis.** There was a *Council* celebrated at *Eadmer*, fol. 67. n. 20.

D *Westminster*, by the Common consent, of the *Bishops*, *Abbats*, and *Princes* of the *Kingdom*, and at this Meeting were present the **Prime Men** of the *Kingdom* of **both Orders.** In this *Council* the **Bishops** and **Barons** are called the *principal men* of the *Kingdom*, yet were the **Kings Barons**, they all held of him *in Capite*; and so did the *Temporal Chief Men* of the *Kingdom.*

E In *Mid-Lent*, *Hen.* 1. in the Third of his Reign went to *Canterbury*, to prevail with the *Arch-Bishop Anselme* to desist from maintaining the **Popes** *Usurpations* upon the Rights of the *Crown*, which His Predecessors had always enjoyed, and to urge him to undertake a Voyage to *Rome*, and to endeavour to obtain from the **Pope**, that he should quietly enjoy what were his *Ancestors* Rights. The *Arch-Bishop* desired the further Consideration of this Matter might be deferred until **Easter**, that he might make his *Answer* Ibidem, fol. 69. n. 40. Anno Domini 1102.

F according to the *Advice* of the **Bishops** and **Chief Men** of the **Kingdom.** *Igitur in* **Pascha** *curiam venit,* **Communis Concilii** *vocem unam accepit, æquum scilicet fore illum tantæ rei gratiâ viæ laborem debere, non subterfugere.* He came therefore to Court at **Easter**, and received the Unanimous Vote of the **Common Council**, that in so great a matter it was not fit for him to wave the Journey, though troublesome. What **Common Council** was Anno Dom. 1103.

this of the *Bishops* and *Chief Men* of the *Kingdom* that *Anselm* referred himself in Mid-Lent to be held at **Easter**? Was it not **ex more**, by Custom? He cannot find in *Eadmer* any *Summons* to it, neither *Rex ascivit, præcepto Regis convenerunt*, nor *Rex Sanctione suâ adunavit.*

Ibidem, fol. 90. n. 40.

Again, *adunatis*, without either (*præcepto Regis*, or *Sanctione*) *ad Curiam ejus in* **Paschа Terre Principibus**; the *Princes* or *Chief Men* of the **Nation** met at his Court at **Easter**. A

And Note, there were **regni Episcopi** as well as **regni Barones** & **Principes**; if they signified any more, than other Bishops, or if any distinction could, or ought to be made by that Term. *Cepit Anselmus coram Rege* **regnique Episcopis**, *atque Principibus exigere à Gerardo Archiepiscopo Eboracensi professionem de suâ obedientiâ*, &c. *Anselm* began to exact before the *King* and **Bishops** of the **Kingdom** and *Princes*, or Chief Men, the profession of Obedience from *Gerrard Archbishop* of *York.* B

Ibidem, fol. 91. n. 40.

In another place *adunatis* (without either *Præcepto*, or *Sanctione Regis*) *ad curiam suam in* **Solemnitate Pentecostes** *apud Lundoniam* **Cunctis Majoribus Regni.** All the *Great Men* of the *Kingdom* met at the *Kings Court* at *London* in the *Solemnity* of *Pentecost.* C

Ibidem, fol. 94. n. 50.

Further, *In Festivitate* **Pentecostes** *Rex Hen. Curiam suam Londoniæ in magna mundi gloriâ celebravit & diviti apparatu, qui transactis Coronæ suæ festivioribus diebus, cepit agere cum* **Episcopis & regni Principibus**, &c.

Ibidem, fol. 102. n. 50.

In the *Feast* of **Pentecost** *King Henry* held a splendid *Court* in great worldly glory at *London*, who when the days of Feasting were past, began to Treat with the *Bishops* and **Great Men** of the **Kingdom.** D

Ibidem, fol. 105. lin. 3.

Yet further, the same Author, *In subsequente* **Natibitate** *Domini Christi* **Regnum** *Angliæ ad Curiam Regis Lundoniæ* **pro more** *convenit, & magna* **Solemnitas** *habita est atque sublimis.* In the subsequent **Natibity** of our Lord Christ, the **Kingdom** of *England*, according to **Custom**, met at the *Kings Court* at *London*, and there was a great and high Solemnity. This **Instance** is full in *all points.* Here was the **Kingdom** of *England*, that is the **Baronage** or **University** of *England*, (for, as was noted before out of *Bracton*, the Kingdom consisted of *Earldoms* and *Baronies*) who met, **according** to **Custom**, at the *Kings Court.* And hence 'tis manifest, that at those times the Common Council of the Kingdom was held; from this also, and from the former Instances, 'tis most evident, that the **Barones, Principes, Optimates, & Majores Regni**, did, at those three *Great Feasts*, **pro more**, according to **Custom**, Frequent the *Kings Court.* E F

It was the Custom in *Germany* and *France*, to hold Great Councils at those times, and therefore the Ancient Historians tell us, where the Emperors and Kings of *France* always were at *Christmas*, *Easter*, and *Whitsunday.*

Fol. 658. n. 40.
Fol. 659. li. 1.

Mat. Paris likewise says, *In die* **Pentecostes** *Dominus Rex Anglorum Londini festum tenens magnum & serenissimum*, **Tunc** *compositâ per Regni* **Universitatem** *Eleganti Epistolâ*, &c. In the day of **Pentecost** the *King* of *England* kept a most splendid *Feast* at *London*,

London, then there was an Elegant Epistle composed by the **University** of *England*, &c. This was about the **Popes** Exactions, as hath been before delivered; and *Henry* the Third in his Letter to the **Pope**, calls the **same Persons, Magnates** *Angliæ*, which in his Letter to the Cardinals, about the same matter, he calls **Magnates Nostri**, as the Reader may see in the former Citation of them.

Magnates Angliæ & Magnates Nostri, the Kings Great Men the same Persons.

A

Perhaps it will be Answered, that he hath anticipated and evaded all this, by saying, it is true, Kings did often Convene, or Summon the Common Council of the Kingdom at one of the said Feasts, being a great conveniency to the Tenents in *Capite*; **It may be**, upon extraordinary business, it might be so, when the **Occasion** was great, and he desired a great and full Appearance, they might receive Summons at those times. But then I must desire him to shew us the Summons to any of these Common Councils, which when called at other times, are most constantly mentioned in this Author, and I must know of him what he will say to that **pro more convenit** which is spoken of the most **General Council**, when the **Kingdom** of *England* met at the Kings Court.

Page 132.

B

But it was, he says, a great Conveniency to the *Tenents* in *Capite*, to have these Common Councils then appointed, as if there were **Earls** and **Barons** then in *England*, that did not hold their Earldoms and Baronies, and Estates in *Capite*. He grants, that *Tenents* in *Capite* were the **Kings Barons, Milites, Magnates**, &c. Upon this we will joyn Issue. And I do affirm (without bringing Proofs, which are infinite in this Case) that all the Bishops, Earls, and Barons of *England*, did hold their Lands, Earldoms, and Baronies of the Crown, or which is all one, of the King, as of his Person, and that was in *Capite*.

C

All the Bishops Earls, and Barons of *England* were Tenents in Capite.

D

William the Conqueror divided most of the Lands in *England* amongst his great Followers, to hold of him, he made **Earls** and **Barons** such as he pleased: They and their Descendants held upon the Terms of the first Grant, which was, to find so many Horse and Arms, and do such and such Services; both Titles and Lands were forfeitable, and for Treason or Felony they did forfeit them to the King, or for want of Heirs they Escheated to him; and for these Lands and Titles, they Sware **Fealty** to the King, and did him **Homage**; and became his Men from that day forward of **Life** and **Limb**, &c. and every **Bishop, Earl** and **Baron** of *England* was in these Circumstances, and **held** of the King after this manner.

Doomesday-Book in every County.

The Barons Lands were Forfeitable, and escheated to the King.

They did Homage, and Sware Fealty to the King.

E

Other Lands were given to other Persons for meaner Services; as to his *Wood-wards*, *Foresters*, *Huntsmen*, *Falconers*, *Cooks*, *Chamberlains*, *Gold-smiths*, *Bayliffs* of Mannors in his own hands, and many other Officers, which in Doomesday are called *Terræ Taniorum Regis*, and sometimes *Servientium Regis*; and I doubt not, what ever the notion of Petit Serjeanty is now, but that originally this holding of Lands was the true Tenure; not but presenting the Lord with a Bow, an Arrow, a pair of Spurs every year, *&c.* might also be called Petit Serjeanty, though not so properly as the other.

Land given by the Conqueror to ordinary Persons, or Servants.

F

Who ever held of the *Tenents in Capite*, by Mean Tenure in Military Service, held of those Barons, or *Tenents in Capite* by the same, or the like Tenure that themselves held of the King; and these **Sub-feudataries**, or *Sub-altern Feudataries* (as the *Feudists* call them) the King antiently might take any of them to his Service, if he would, and also distrain in their Fees for his Services, if the Lord *Paramount* performed them not, yea, and upon the Villain or other Lands that held of him. We never had any Baronies held by mean Tenures here in *England*; this, if he denies, he must deny all History, and all our Antient Law, and Law-Books; and if he grants it, he must confess, that every *Baron was a Tenent in Capite*, and by his own concession he must then be the Kings Baron, or **Baro Regis.** A

Sub-feudataries. *Gerv. Tilb.* l. 2. c. 4.

Ibid. c. 15.

Nominal and Titular Barons there were many, such were great Tenents to great Subjects. *Henry de Novo Burgo* Earl of *Warwick*, confirmed little *Chesterton* and *Hill* in the County of *Warwick-shire* to the Monastery of *Abendon*, in the presence of his Barons, of which *Richard Fitz-Osborn*, and *Thurstan de Montfort* are particularly named; the last of which held ten Knights Fees of *William* Earl of *Warwick* Grand-child to *Henry*. *Robert Fitz-Haymon* Earl of *Gloucester*, gave the Essart or Wood that had been stubbed, between *Marlowe* and *Hamstede* to the Abbey of *Abendon*, as it had been designed by his Barons. Several other great Subjects there were, who had Tenents that held five, six, seven, eight, or ten, or more Knights Fees under them, who had the Name and Title of Barons, as the Lord of the Isle of *Wight* in that Island, *&c.* B C

Titular Barons the great Tenents of great Subjects. Seld Tit. Hon. fol. 570. Dugd. Warw. Antiqu. f. 303.

Monast. vol. 1. fol. 106. n. 30.

And further, I desire this Gentleman to shew in his next, if he can, where there was ever any such kind of Tenure, as *Tenura de Regno:* Whether there was ever any Man that held an Estate *de Regno*? Whether Forfeitures or Escheats were to the Kingdom? And whether Fealty was sworn, or Homage done to the Kingdom? Or whether an Earl was Invested, or Girt with the Sword of the County by the Kingdom, or whether the Antient Ceremonies, used at the Creations of Earls and Barons, were done by the Kingdom. Thus all the Barons of *England* held of the King, and thus all these things were performed and done to our Antient Kings, and by them which are most manifest Notes of the Kings Jurisdiction over the Barons, and that they were his *Tenents in Capite*, and by consequence his Barons, which our Author will not deny; of which *Tenents in Capite*, the Earls, and Great Barons always created by Investiture of Robes, or other Ceremonies, were summoned by particular Writs, and the other *Tenents in Capite* ever since the Seventeenth of King *John*, were summoned by one Common Writ, directed to the Sheriff of the County. D E

No such thing as *Tenura de Regno.*

Tenents in Capite the Kings Barons.

And of these *Tenents in Capite*, the greatest part of the Lands in *England* were holden by *Sub-Tenents* in *Military-Service*: But upon any Warlike Expedition, the King only summoned such as held of him *in Capite*, to do him Service in Horse and Arms, according to the number of Fees they held immediately of him, to whom, if they served in Person, and performed their whole Service by *Servientes*, whether Menial Servants, or Stipendiary Horse-men, (and either out F

See *Glossar.* in the words Knights-Fees, *&c.* Most of the Lands in *England* in the possession of Tenents in Capite.

out of gain would not call, or out of favour ſpared their Tenents) (*a*) the King alone, by his Prerogative, and by virtue of his Original Grant of Fees, granted them Warrants to receive Scutage and Aid of all their Tenents proportionable to the time they had been in the Kings Service, ſometimes half a Mark, ſometimes ten Shillings, ſometimes one Mark, ſometimes two or three Marks. *&c.* So that they were immediately accountable to the King, for the Fees they held of him, and their Tenents to them for their Fees they held of them. And that it was ſo, it is very manifeſt from the following Records.

(a) *Clauſ.* 16. *Johannis*, m. 24 *Dorſ. Clauſ.* 5 *Hen.* 3. *Dorſ. Clauſ.* 7 *Hen.* 3. m. 4. *Dorſ. Mat. Paris*, fol. 322. l. 5. The King by His Prerogative granted Scutage and Aid to his Tenents in Capite. Ibidem.

Rex Vicecomiti Glouceſtr. *Salutem, præcipimus tibi quod habere facias dilecto nobis* Sahero *Comiti* Winton. auxilium *de Militibus ſuis in Balliva tua, ſcilicet de Scuto tres Marcas, ad filium ſuum primogenitum Militem faciendum, & ſimiliter rationabile* auxilium *de libere tenentibus ſuis ad idem.*

Cl. 15. Joh. m. 9. Aid granted by the King to his Tenents in Capite from their Tenents.

Eodem modo ſcribitur omnibus Vicecomitibus in quorum Ballivis idem Comes terras habet; Teſte meipſo apud Stoke-Epiſcopi *tricesimo die* Junii.

The King to the Sheriff of *Glouceſter-ſhire*, Greeting, We Command you that you cauſe our beloved *Saher* Earl of *Wincheſter*, to have Aid of his Knights or Military Tenents in your Bailywick, that is, three Marks of every Fee, to make his eldeſt Son a Knight; and likewiſe a reaſonable Aid of his Free Tenents for the ſame.

In the ſame manner the King wrote to all the Sheriffs in whoſe Bailywicks the ſame Earl had Lands; Witneſs our Self at *Biſhops-Stoke*, the thirtieth day of *June*.

Rex Vicecom. Northampt. *ſalutem. Scias, quod conceſſimus dilecto & fideli Avunculo noſtro* W. *Com.* Sarum, *quod habeat Scutagium ſuum de Militibus ſuis, qui de eo Tenent in Balliva tua pro exercitu noſtro* Walliæ *in quo nunc eſt per præceptum noſtrum, ſcilicet de Scuto duas Marcas. Et ideo tibi præcipimus quod prædictum Scutagium ei habere facias ut prædictum eſt* T. R. &c. *apud* Winton. 19. *die* Auguſti.

Cl. 7. H. 3. m. 4. Dorſ. Scutage granted by the King to his Tenents in Capite from their Tenents.

Eodem modo ſcribitur Vicecomitibus. Midd. Lincoln. Oxon. Wilts. Dorſ. Somerſ.

Eodem modo ſcribitur pro Hamone Peche, *Vicecomitibus.* Cantebr. Norf. & Suff. Lincoln. Eſſex, Salop, Berks.

The King to the Sheriff of *Northampton-ſhire*, &c. Know, that we have granted to our Beloved and Faithful Uncle *W.* Earl of *Salisbury*, that he may have his Scutage of his Knights or Military Tenents, that hold of him in your Bailywick, for his now being in our Army againſt the *Welſh* by our Command; that is, of every Fee two Marks, and therefore we Command you, that you cauſe him to have the foreſaid Scutage. Witneſs the King, *&c.* at *Wincheſter* the nineteenth of *Auguſt*.

After

After the same manner the King wrote to the Sheriffs of *Middlesex, Lincolnshire, Oxfordshire, Wiltshire, Dorsetshire,* and *Somersetshire.*

After the same manner the King wrote for *Hamon Peche,* to the Sheriffs of *Cambridgeshire, Norfolk* and *Suffolk, Lincoln, Essex, Salop,* and *Berkshire.*

A

Ibidem. An Aid granted by the Kings Prerogative to his Tenents in Capite, from their ordinary Freeholders.

Rex Vicecomitibus Midd. salutem. Scias quod concessimus W. *Com.* Sarum *quod habeat rationabile auxilium de liberis hominibus suis in Balliva tua ad se sustentandum in servitio nostro in exercitu* Walliæ *in quo nunc est per præceptum nostrum & ideo tibi præcipimus quod prædictum* auxilium *ei habere facias ut prædictum est* T. *ut supra.*

Eodem modo scribitur Vicecomitibus Hereford, Wilts, Somerset, & Dorset, Southampton, Bedford & Bucks, Cantebr. & Huntington, Essex & Hertford, Lanc. Northampt. Norf. & Suff. Oxon. Glouceſt. Wigorn. Heref. Sussex, *pro Com.* W. *Mar. tam de Scutag. quam de auxilio habendis,* &c. T.R. *apud* Westm. 23. *die* Augusti.

B

Eodem modo scribitur pro Hamone Peche *de auxilio habendo Vicecom.* Cantebr. Essex, Lincoln, Kanc. Norf. & Suff.

Eodem modo scribitur pro W. de Bello Campo, *de Scutag. habendo Vicecom.* Midd. Rotel. Hertford, Surr. Bedf. Bucks, Hunt. Berks.

C

Eodem modo, &c. *Vicecom.* Nott. *pro* Waltero de Clifford, *de Scutagio suo habendo.*

Ibidem. All *Normans.* Scutage and Aid granted by the Kings Prerogative to his Tenents in Capite from their Tenents.

Eodem modo scribitur separalibus Vicecom. pro Scutag. & auxilio habendo pro W. Fil. Warini, Hugone de Mortuo Mari, Roberto de Bello Campo, Warino de Monchensey, Phillipo de Columbariis, Hen. de Brayosa, Maurit. de Gant, Will. de Gamages, W. Briwer *Jun.* Stephano de Ebroicis, *Comite* H. le Begod, Hugh de Kilpeck, J. Episcopo Bathon. W. de Maundevill, *Com.* Essex, Johanne de Boterell, Hen. de Tracy, Walt. de Baskervill, W. de Kantilupo, Rob. de Novo Burgho, G. *Com.* Glouceſt. Rob. de Curtenay, Rob. de Mucegros, Rob. de Vallibus, Walt. de Escot.

D

E

The King to the Sheriff of *Middlesex,* &c. Know ye, that we have granted to *W.* Earl of *Salisbury* a reasonable Aid of his Free-men in your Bailywick to support him in our Service in the Army against the *Welsh,* in which he now is by our Command, and therefore we Command you to cause him to have the foresaid Aid; Witness as above.

After the same manner the King wrote to the Sheriffs of *Wilts, Somerset* and *Dorset-shires, Bedford* and *Buckingham-shires, Cambridge* and *Huntington-shires, Essex* and *Hertford-shires, Northampton-shire, Kent, Sussex, Norfolk* and *Suffolk, Oxford, Glouceſter, Worceſter,* and *Hereford-shires,* for *William Earl Marshall,* that he might have his Scutage and Aids: Witness the King at *Westminster* the 23. of *August.*

F

After

After the same manner, *&c.* for *Hamon Peche*, for his Aid to the Sheriffs of *Cambridge-shire*, *Essex*, *Lincoln-shire*, *Kent*, *Norfolk* and *Suffolk*.

In the same manner, *&c.* for *W. Beauchamp* for his Scutage to the Sheriffs of *Middlesex*, *Roteland*, *Hertford-shire*, *Surrey*, *Bedford*, *Buckingham*, *Huntington* and *Berk-shires*.

A

In the same manner, *&c.* to the Sheriff of *Nottingham-shire* for *Walter de Clifford* to have his Scutage.

In the same manner the King wrote to the several Sheriffs for Scutage and Aid for *W. Fitz-Warin*, *Hugh Mortemer*, *Robert Beauchamp*, *Warin de Monchensey*, *Phillip de Columers*, *Hen. de Brayose*, *Maurice de Gant*, *Will. de Gamages*, *Will. Briwer* Junior, *Stephan D'euereux*, Earl *H. Bigod*, *Hugh de Kilpeck*, *J.* Bishop of *Bath*, *W. de Mandevill*, Earl of *Essex*, *John de Boterell*, or *Botereaux*, *Hen. de Tracy*, *Walter de Baskervill*, *Will. de Cantilupe*, *Robert de Neuborough*, G. Earl of *Gloucester*, *Robert de Courtney*, *Robert Mucegros*, *Robert de Vaus*, *Walter de Escot*.

B

D: monte canisio. De Bruera.

Rex Vicecomitibus Wigorn' *Salutem*, *Quia dilectus & fidelis noster* Hugo le Dispenser, *per præceptum nostrum fuit cum dilecto consanguineo & fideli nostro* Edmundo *Comite* Cornubiæ, *qui moram traxit in* Anglia, *pro conservatione pacis nostræ Anno Regni nostri decimo, nobis tunc existentibus in exercitu nostro* Walliæ, *tibi præcipimus quod eidem* Hugoni *facias habere* **Scutagium** *suum de feodis Militum*, *Quæ de eo tenentur in Balliva tua, videlicet quadraginta solidos de Scuto, pro exercitu nostro prædicto, & hoc nullatenus omittas. Teste* Edmundo *Comite* Cornubiæ *Consang. Regis apud* Westm. 13. *die* Aprilis.

C

Ex. Rot. Scutag incipien. Anno 10. Ed. 1. & continuat. usq; Annum. 19. De An. 15. The King by his Prerogative Grants Scutage to his Tenents in Capite from Tenents though not in the Army, and otherwise imployed by the King.

Consimiles Literæ diriguntur Vicecomitibus, Leicest. Eborum, Lincoln, Staff. Wilts, Southt' Surr. Bucks, Essex, North. Oxon, Berks, Norf. Suff. Rotel. & Justic. Cestr. T. ut supra.

D

The King to the Sheriff of *Worcestershire*, &c. Because *Hugh Dispenser* by our Command, was with our Cousin-German *Edmund* Earl of *Cornwall*, who stay'd in *England* for the Conservation of our Peace, in the Tenth year of our Reign, we being then in our Army against the *Welsh*, we Command you, that ye cause the same *Hugh* to have his Scutage of the Knights or Military Fees which hold of him in your Bailywick, that is, forty Shillings of every Fee, by reason of our Army aforesaid; and this you shall in no wise omit, witness *Edmund* Earl of *Cornwall* the Kings Cousin at *Westminster* the 13th day of *April*.

E

The like Letters were directed to the Sheriffs of *Leicester*, *York*, *Lincoln*, *Stafford*, *Wilts*, and *Southampton-shires*, *Surrey*, *Essex*, *Norfolk* and *Suffolk*, *Buckingham*, *Northampton*, *Oxford*, *Berk*, and *Rutland-shires*, and to the Justiciary of *Chester*, witness as above.

F

Rex Vicecomitibus Eborum *salutem*, *Quia dilectus & fidelis noster* Henr. de Lacy *Comes* Lincoln' *non sine magnis sumptibus & expensis, ad Communem*

Rot de Scutag. de Anno Regni Reg. E. fil. Reg. Hen. 31 m. 2.

The King accepts Civil imployment beyond Sea for Military Service, and grants his Tenent in Capite Scute of his Tenents, as if he had been actually in his Service.

Communem utilitatem Regni nostri fuit in obsequium nostrum per præceptum nostrum in partibus Franciæ *pro Reformatione pacis inter nos & Regem* Franciæ *Tempore quo eramus in exercitu nostro* Scotiæ *anno videlicet regni nostri* 31. *Quod quidem obsequium loco servitii sui quod tunc nobis feciſſe debuerat* **acceptamus**, *tibi præcipimus quod eidem Comiti, habere facias* **Scutagium** *ſuum de feodis Militum, quæ de eo tenentur in Balliva tua videlicet quadraginta ſolidos de Scuto pro* **exercitu noſtro** *prædicto, & hoc nullatenus omittas*, T. R. *apud* Weſtminſter 6. *die* April. A

Conſimiles Literas habet idem Comes Vicecomitibus ſubſcriptis, videlicet Wilts, Bedford, Bucks, Somerſ. Dorſet, Glouc. Norf. Suff. Hertford, Leic. Lanc. Nottingh. Derby, Northt' Midd. Cantebr. Oxon. Berks, T. *ut ſupra.*

The King to the Sheriff of *Yorkſhire*, Greeting, Becauſe our Beloved and Faithful *Henry de Lacy* Earl of *Lincoln*, not without great Coſts and Charge for the common Profit of the Kingdom, was in our Service in *France* by our Command, for treating a Peace between us and the King of *France*, at the time when we were with our Army in *Scotland*, in the one and thirtieth year of our Reign, which imployment we accept inſtead of his Service, he ought then to have performed to us. We Command you to cauſe the ſaid Earl to have his Scutage of the Knights Fees which are holden of him in your Bailywick, that is forty Shillings of every Fee for our Army aforeſaid, and this you ſhall in no wiſe omit: Witneſs the King at *Weſtminſter* the ſixth day of *April*. B C

The like Letters the ſaid Earl had to the Sheriffs of *Wilt, Bedford, Buckingham, Somerſet, Dorſet, Glouceſter, Hertford, Leiceſter, Nottingham, Derby, Northampton, Cambridge, Oxford, Berk* and *Lancaſhire, Middleſex, Norfolk* and *Suffolk*: Witneſs as above.

Rex Vicecom' Eborum *Salutem*, *Quia dilectus & fidelis noſter* Henricus de Percy *fuit nobiſcum per præceptum noſtrum in exercitu noſtro* Scotiæ *Anno Regis noſtri* 31. *Tibi præcipimus quod eidem* Henrico *habere facias* **Scutagium** *ſuum de feodis Militum, quæ de eo tenentur in Balliva tua, videlicet quadraginta ſolidos de Scuto pro exercitu noſtro prædicto, & hoc nullatenus omittas*, T. R. *ut ſupra.* D

Conſimiles Literas habet Idem Henricus *Vicecomitibus ſubſcriptis, videlicet* Lincoln, Nottingh. Derby, Cant. Huntingd. Norf. Suff. Salop, Stafford, T. *ut ſupra.* E

The King of his ſpecial Grace, grants Scutage to the Executors of a deceaſed Tenent in Capite.

Conſimiles Literas habent **Executores Teſtamenti** Johannis de Warenna *quondam Comit. Surr. defuncti de habendo* **Scutag.** *de feod. Militum quæ de ipſo Comite Tenebantur die quod obiit* **de Gratia Regis ſpeciali**, *Vicecomitibus* Surr. Suſſex, Eſſex, Hertf. Bucks, Lincoln, North. Ebor. T. R. *apud* Kenington 23. *die* Maii *per Breve de privato Sigillo.* F

The Executors of the Teſtament of *John Warren* late Earl of *Surrey* deceaſed, had the like Letters, that by the Kings ſpecial Grace, they might have Scutage of the Knights Fees, which held of the Earl at the time of his Death, directed to the Sheriffs of *Surrey, Suſſex, Eſſex, Hertford, Buckingham, Lincoln, Northampton* and *Yorkſhire*: Witneſs the King at *Kenington* the 23th of *May*, by Writ of Privy-Seal.

Conſimiles

Consimiles literas habent subscripti Vicecomitibus subscriptis, Prior de Coventry Qui finem fecit, &c. habet **Scutagium suum** *in Com. War. Leycest. Northt. Glouc. Wigorn. T. R. apud Fyndon 19 die Junii.*

Abissa Shafton quæ finem fecit, &c. habet Scutag. suum in Com. Abbas de Shireburn Qui habuit Servitium suum, &c. habet **Scutagium** *suum in Com. Dors. & Devon. T. R. ut supra.*

A

Thus it was for *Ayds*, and *Scutage-service*, but if it was for *Scutage* by *Grant* in Parliament, or as a *Tax* upon Lands by the common consent of the Nation, then the *Tenents* in *Capite* were the *Collectors* of that *Scutage* only, from their Military Tenents, and the Writ to the Sheriff was *different* from *those* of Scutage Service, though in *substance*, and according to the *thing* it self they were the same.

B

Rex Vicecomiti Sussex salutem. Scias Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & **omnes alii** *de* **Regno nostro Anglie Qui de nobis Tenent** *in* **Capite**, *spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad magna negotia nostra Expedienda, unde provisum est de* **Consilio illorum** *Quod habeamus de* **Feodis Militum** *&* Wardis Quæ *de* **nobis Tenent in Capite**, *Duas* marcas *ad predictum auxilium faciendum, & unde proviserint reddere nobis unam medietatem ante festum Sancti Michaelis Anno Regni* 19. *& aliam Mediatatem ad pasche Anno Regni nostri* 20. *Ideo Tibi precipimus Quod ad * Mandatum venerabilis patris R. Cicestren. Episcopi Cancellarii nostri, sine Dilatione Distringas omnes* **Milites & liberos tenentes**, *Qui de eo* Tenent *per* **Servitium Militare** *in Balliva tua, ad Reddendum ei de singulis* **feodis Militum, & Wardis Duas Marcas**, *ad predictum Auxilium nobis per manum suam Reddendum in Terminis predictis.*

Cl. 19 *Hen.* 3. *m.* 8. *Dors.*

* He was to give this Command as a Baron, and not as Chancellor, as appears by the *Sic Scribitur, &c.*

C

D

Sic scribitur pro aliis Episcopis Abbatibus Prioribus & Magnatibus.

The King to the Sheriff of *Sussex, &c.* Know ye that the *Arch-Bishops, Bishops, Abbats, Earls, Barons,* and *all others of Our Kingdom which hold of Us in Capite*, of their free Will and not of Custom, have granted to Us, *&c.* that we shall have *two Marks* of *every Knights Fee* and of *Wards* which hold of Us in Capite *two Marks, &c.* Therefore We Command you, That at the Command of *R. Bishop* of *Chichester* our *Chancellor*, you distrein all *Knights* and *free Tenents* that hold of him by *Military Service* in your *Bayliwick*, to pay him of *every Knights Fee* and of *Wards*, *two Marks*, toward the *Ayd* aforesaid to be paid to Us by his Hands, at the times aforesaid.

E

I have said enough, I hope, to satisfie any sober Man of the *Idleness* of our Authors *Fancy* concerning **Barones Regis & Regni**, which were the same Persons; and also to shew that the King anciently by his *Prerogative*, and his Original Power and Right, reserved upon Military Fees, did Tax the Military Tenents of his Tenents in Capite, and their other ordinary free Tenents, and by his Writs caused them to pay unto them *Scutage* of both kinds, and Reasonable Aids.

F

I have said enough, I hope, to satisfie any quiet sober Man of the Idleness of our Author's Fancy, concerning **Barones Regis & Regni**, which were the same Persons.

Page 132. From this Aery Ambuscade of **Barones Regis & Regni**, he retreats to his old Notion, and proceeds to shew, that the *Milites Tenentes qui de Rege tenuerunt in Capite*, together with the other Great Lords that held of the King, were not the *Partes constituentes*, and alone did compose and make up the *Totum*, the whole Body of the *Generale*, or *Commune Concilium Regni*, or Parliament, and begins with a Statute or Act of Parliament made in the time of *Richard* the First: The Assize (saith he) or Statute, being made *per Assensum & Concilium, Archiepiscoporum, & Episcoporum, & Abbatum, Comitum & Baronum, Militum & Libere Tenentium totius Regni.* He hath added these three words, **Et Libere Tenentium**, after the word *Militum*, they are not to be found in *Hoveden*, whom he cites in the Margin, but conceals the Folio and Number. 'Tis Natural to him, he cannot give over adding to, or leaving out of Records and Histories what he judgeth makes for his purpose.

Ibidem. Our Author adds to Hovedens words.

What the Historian delivers in short, is this:

Ibidem. After he hath enumerated the Articles of the ordinary Pleas of the Crown, he mentions the Forest Pleas, and says, *Præceptum est, ex parte Regis ut convenirent coram iis* (the Justices of the Forest which he there names) *per singulos Comitatus per quos ituri essent ad Placita Forestæ*, **Archiepiscopi, Episcopi, Comites & Barones, & omnes Libere Tenentes, & de unaquâque villâ prepositus, & Quatuor Homines** *ad audienda præcepta Regis.*

See Præpositus in the Gloss.

That is, it is commanded by the King, that in every County through which his Justices of the Forest should go, the Archbishops, Bishops, Earls and Barons, and all Free-Tenents, and of every Town the Chief Officer, and four others, should appear before them, to hear the Kings COMMANDS. And then immediately follows the Assize or Forest Laws, with this preamble, which our Author cites in part with his own Addition of (& libere Tenentium) after **Militum. Hec est Assiza Domini Regis, & hec sunt precepta de Forestis suis in Anglia facta** *per* **Assensum & Consilium Archiepiscoporum, Episcoporum, & Abbatum, Comitum & Baronum, & Militum totius Regni.** This is the Assize of the Lord the King, and these the Precepts concerning his Forests in *England*, made by the Assent and Advice of the Archbishops, Bishops, Earls, Barons, and Milites of the whole Kingdom; not a word of any **Free Tenents** in the Historian, which he hath here foisted in. But, Why did he not also bring in the Lords Bayliff, and the **four** other Men in every Town, as Consenters to, and Advisers in the making this Law? It would have fitted his Conceit better. For it seems to me he is not satisfy'd to have all the **Free-holders** in General, as he translates **Libere Tenentes**, meaning our ordinary Free-holders, as at this day, to be Essential and Constituent parts of the Parliament, but would bring in *Tag*, *Rag*, and *Long-Tail*, the whole Rabble to be Law-makers: And to make good this Giddy Notion, he makes use of

Hoveden, ut supra.

He is truly cited.

Milites here were Tenents in Capite, and no others: See Knights Fees and Milites in the Glossary.

Our Author makes all the Men of *England* Members of Parliament, p. 133, 134.

of the word *Fideles* in two several Records, *Rot. Pat. 6 Johannis, m. 2. dors. & Rot. Pat. 8, 9. Johannis, n. 3. &* **omnes de Regno** *qui dederunt Regi Quintam Decimam, &c.* in the last Chapter of **Magna Charta**, where he would have **fideles & omnes** *de* **Regno** signifie all Subjects in general. P. 138.

As for the word *Fideles* in the first Record, it is evident, they were the Kings Tenents in Capite only. *Rex*, &c. *Vicecom. Rotel.* &c. *Scias quod provisum est Communi assensu Archiepiscoporum, Episcoporum, Comitum, Baronum & omnium fidelium nostrorum Angliæ Quod* **Novem Milites** *per totam Angliam invenirent decimum* **Militem** *bene paratum Equis & Armis ad defensionem Regni nostri, & quod illi* **Novem Milites** *invenient* **Decimo Militi** *quâlibet die* **iis** *ad Liberationem suam; & ideo tibi præcipimus quod sicut teipsum & omnia tua diligis, provideas quod* **decimi Milites** *de Balivâ tuâ sint apud* **London** *à die Paschæ in tres septimanas bene parati Equis & Armis*, &c. That is, the King to the Sheriff of *Roteland*, &c. Know, that it hath been provided by the Common Assent of the Archbishops, Bishops, Earls, Barons, and all our *Fideles*, or *Tenentes in Capite*, that nine Knights through all *England* should find a Tenth, well provided with Horse and Arms for the defence of our Kingdom, and that those Nine shall find the Tenth Knight every day **two shillings** for his Pay and Wages, and therefore we Command thee, *&c.* *Pat. 6. Johannis*, m. 2. Dors. Page 133. Fideles in this Record, Tenents in Capite.

What could these *Fideles Angliæ* be but *Tenents in Capite?* What had other Men to do to give assent to this Law, that were not concerned in it, nor could be? The **Nine Knights** also that were to find a **Tenth**, were *Tenents in Capite*, and the Tenth also, for they would never have allowed so great pay to an ordinary *Miles* (Horseman) or *Tenent in Military Service.* **Two shillings** a day in the 6th of King *John*, *Anno Dom.* 1205. 465 years since, is at least **Thirty shillings** a day now: And therefore he that had this allowance, went forth in a good Equipage, and maintained (without doubt) several *Soldiers*, *Servientes*, or *Esquires* with it, and was a *Tenent in Capite.*

'Tis most probable likewise, that the *Fideles* mentioned in the other Record about **Romescot**, were *Tenents in Capite.* He only recites these words of it, *Universitas Comitum, Baronum, Militum & aliorum fidelium*, in the Record, **Fidelium nostrorum**; but the Difficulty in this Record is, that the **aliique fideles** follow *Comites, Barones, & Milites*, and therefore they were the Kings ordinary Subjects, or other ordinary Free Tenents, and not *Tenents in Capite.* But *Mat. Paris* expounds the **aliique fideles**, and helps us out of this difficulty. *Pat. 8. 9 Johannis*, n. 3.

Imminentibus autem & instantibus Calendis Julii (saith he) *Rex Angliæ per Literas suas strictissimè submonitis & convocatis omnibus Comitibus, Baronibus, Militibus &* **aliis qui ei Servitium Militare debebant**, *ut se convenienter in Walliam profecturi sequerentur.* *Paris*, fol. 660. n. 20. An. Dom. 1245. *Hen.* 3. 29.

The King of *England* on the first of *July*, by his Letters, straightly summoned and called together, all the Earls, Barons, and Knights, and **others**, that ought him Military Service, that they might follow him, being about to march into *Wales.* Here we find **others** that ought the King Military Service, and so were *Tenents in Capite*, besides

sides Earls, Barons, and Knights, the place is plain, and needs no further Exposition.

Besides the **Universitas** *Comitum, Baronum, Militum, & aliorum* **fidelium nostrorum** in this Record, were the same Persons mentioned in the Record immediately before this, *Pat. 8, 9. Johannis, n. 2.* which were the **Archiepiscopi, Episcopi, Abbates, Priores, & Magnates** *Regni*; The Archbishops, Bishops, Abbats, Priors, and Great Men, who gave the King an Aid, *&c.* And who the **Magnates** were, *Mat. Paris* also informs us. *Convenerunt Londini* **Magnates** *totius Regni, Archiepiscopi, Episcopi, Abbates, Priores, Comites & Barones, in quo Concilio Rex*, &c. The Great **Men** of the whole Kingdom met at *London*, the Archbishops, Bishops, Abbats, Priors, Earls and Barons, in which Council the King, &c. A

Fol. 693. n. 20. Note, who the Magnates *totius Regni.*

But though this is clear to any unprejudiced Person, yet I must be forced to recite the whole Record, though somewhat long, for he gives us a touch of his old skill, and **Misinforms** his Readers about the meaning of some part of it. B

Page 134, 135.

He says, the **Universitas** *Comitum, Baronum, Militum, & aliorum fidelium* complain against the Clergy about **Romescot**, whereupon the King granted his Prohibition or *Supersedeas* to the Clergy, that they should do nothing therein. *Quousque cum* **Universitate** (before-mentioned) *super hoc Colloquium habemus*; These are his own words, and by this last Clause he would possess his Readers, that the **University**, with which the King would have Conference, was the **University** of the Earls, Barons, Knights, and others his *Fideles*. But it is far otherwise, for the words in the Prohibition are, *quousque cum* **Universitate vestra** *super hoc colloquium habuimus*; it being directed to the Archbishops, Bishops, Abbats, Archdeacons, and all the Clergy, and it was *cum* **Universitate vestra**, or with the **University** of the Clergy (which often occurs in *Paris* and other Historians) that he would *habere colloquium.* The Record will make his mistake evident, and for the matter it contains, is not altogether unworthy perusal. C D

Our Author misinforms his Readers. Page 135.

Pat. 8 & 9. *Johannis* n. 3.

Rex **Archiepiscopis, Episcopis, Abbatibus, Archidiaconis** *&* *omni* **Clero apud Sanctum Albanum convocato salutem, conquerente universitate** *Comitum, Baronum, Militum, & aliorum,* **fidelium nostrorum,** *audivimus, quod non solum in Laicorum gravem perniciem, sed etiam in totius regni nostri intolerabile dispendium super* **Romscotto** *præter consuetudinem solvendo & aliis pluribus inconsuetis exactionibus autoritate summi Pontificis consilium inire & concilium celebrare decrevistis. Nos vero licet ob honorem fidei nostræ & debitum Reverentiæ quod sanctæ* **Ecclesie Romane** *impendere tenemur, voluntatem ejusdem patris nostri* **Domini Pape Innocen.** *obtemperare cupiamus, tamen omittere non possumus quin querel. fidelium & subditorum nostrorum clamantium & de jactura suâ sibi prout necesse est subveniamus, & emergentibus causis quæ indemnitati pacis & unitatis regni nostri obviare possunt, qua decet celeritate & diligentiâ occurramus; Vobis igitur præcise mandamus & expresse prohibemus ne super prædictis vel aliquibus aliis concilium aliquod autoritate aliquâ in fide qua nobis tenemini teneatis vel contra regni nostri consuetudinem* E F

The King forbids the Clergy, that they hold not a Council by th Popes Authority.

nem aliquod novum ſtatuatis. Sed ſicut & nos honorem noſtrum & communem regni tranquillitatem diligitis, à celebratione hujuſmodi concilii & à prædictis tractatibus ad præſens ſuperſedeatis quouſque cum **univerſitate veſtra** *ſuper hoc colloquium habuimus, Scientes pro certo quod expediet honori* **Sancte Romane** *Eccleſiæ &* **Domino Pape** *& nobis & vobis quod iſtud ad præſens negotium differatur donec ſpecialem habuimus conferentiam quomodo poſſit commodiùs & honeſtiùs explicari. Et quod vobis hoc mandamus pro honore & commodo ſacroſanctæ Eccleſiæ & noſtro & regni id facimus, Quia talia audivimus quod fieri neceſſario expediet, ſicut vobis dicemus cum vobiſcum locuti fuerimus. T. me ipſo apud Ebor. 26. die Maij.*

After he hath played with the word *Fideles* in theſe two Records, he proceeds to the **Omnes** *de* **Regno** in *Magnâ Chartâ* in *Pulton*'s Statutes, chap. 37. In *Coke*'s ſecond Inſtitutes, chap. 38. This Charter is not upon Record in the Ninth of *Henry* the Third, the year it was granted; nor do I believe it is entered any other where until the 21 *Edw.* I. 68 years after upon the Statute Roll by *Inſpeximus*; The words about the meaning whereof we differ, are theſe, *pro hâc autem Donatione & conceſſione libertatum iſtarum, & aliarum libertatum contentarum in chartâ noſtrâ de libertatibus Foreſtæ, Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites, Barones, Milites Liberè Tenentes, &* **Omnes de Regno dederunt** *Quintam Decimam partem omnium mobilium ſuorum.* For this Grant and Conceſſion of theſe Liberties (contained in *Magna Charta*) and other Liberties in our Charter of the Liberties of the Foreſt, the Archbiſhops, Biſhops, Abbats, Priors, Earls, Barons, Knights, Free-holders, and all of the Kingdom, gave the fifteenth part of all their Moveables. P. 138.

His Obſervation upon theſe words is, that thoſe which gave this Subſidy, were the Members of that Parliament. P. 138.

But if it were ſo according to the literal meaning of the words, then **all men**, as well thoſe that had Eſtates in Land, as thoſe that had not, all **Copy-holders**, all **Trades-men**, all **Bond-men**, and **Villains**, of which there were great ſtore in thoſe days, and all **Servants** were Members of that Parliament.

And if ſo, I would willingly underſtand where all theſe People ſhould meet, how their Councils ſhould be managed, and how it is poſſible in ſuch meetings (if any ſuch there can be) to prevent the greateſt confuſion imaginable.

Omnes de Regno, how to be underſtood.

The meaning then of the words muſt be, that the Archbiſhops, Biſhops, Abbats, Earls, Barons, Knights, Free-Tenents, and all of the Kingdom, or all the Kings Subjects **dederunt**, that is, **paid** a fifteenth part of their Moveables to the King, for his granting theſe Charters, not that they gave or granted the Subſidy; and 'tis reaſonable to conclude, that all the Kings Subjects paid this fifteenth part, becauſe one way or other little or much they enjoyed the Benefit of them.

Magna Charta and the 15th of all mens Moveables how granted.

I take this to be the Genuine ſenſe of the words; but the Hiſtory both of Granting the Charters, and Subſidy out of *Mat. Paris* makes it very apparent who were the conſtituent parts of this Parliament. So

Fol.223.n.10. 20. 9. *Hen.* 3.

So much of it as is pertinent to this matter, I here transcribe, *An. Dom.* 1225. *Rex Hen. ad* **Natale** *tenuit Curiam suam apud Westmonasterium præsentibus* **Clero**, *&* **Populo** *cum Magnatibus Regionis,* **Solennitate** *igitur* **completa** * *ut decebat Hubertus de Burgo Domini Regis* **Justiciarius** *ex parte ejusdem Regis proposuit coram* **Archiepiscopis**, **Episcopis**, **Comitibus**, **Baronibus**, & **aliis Universis**, *Damna & injurias quæ Regi allata fuerunt in partibus transmarinis; petiit ergo ab omnibus Consilium, pariter & Auxilium, quibus coronæ Angliæ dignitates amissas ac jura possit pristina revocare, ad hoc quoque plenè perficiendum Regi sufficere credidit, si ei Quinta-Decima pars omnium rerum mobilium totius Angliæ, tam à personis Ecclesiasticis, quam a Laicis donaretur; Hiis in hunc modum prosecutis,* **Archiepiscopus**, & **concio tota**, **Episcoporum**, **Comitum**, **Baronum**, **Abbatum**, & **Priorum**, *habita deliberatione Regi dedere Responsum, quod Regis petitionibus gratanter adquiescerent, si illis diù petitas Libertates concedere voluisset,* **annuit Rex**, *quod petebant* **Magnates.** That is, in the year of our Lord 1225. King *Henry* at *Christmass* held his *Court* at *Westminster*, and the *solemnity* being *compleat*, as it was fit it should be, *Hubert de Burgh* the *Kings Justiciary* on behalf of the *King* propounded before the *Arch-Bishops*, *Bishops*, *Earls*, *Barons*, and all others, the *Damages*, and *Injuries* the *King* had susteined beyond Sea, and asked of them all *Aid*, and *Counsel*, by which the *Crown* of *England* might recover its lost Dignities, and pristin Rights, and said he believed it would be sufficient fully to perfect that work, if a *fifteenth part* of all the Moveables of *England*, as well of *Ecclesiasticks*, as *Laicks*, were granted to the *King*. To these things thus urged, the **Arch-Bishops**, and the whole *Assembly* of **Bishops**, **Earls**, **Barons**, **Abbats**, and **Priors**, after **consultation** had about them, gave the *King* this **Answer**, that they would willingly comply with his Demand, if he would grant them their long requested *Liberties*. The *King* **consented** to what the *great Men* demanded, and the **Charters** were forthwith transcribed, **Sealed** with the *Kings* **Seal**, and sent into the *several Counties*, and were the very **same Charters** *King John* had before granted.

*Q. Whether *ut decebat* doth not imply that this Convention or Solemnity at *Christmass*, was *ex more*, by Custom. Here is not the least hint of any Summons as at other times.

Ibid.n.20,30.

Upon this *Account* of this *Parliament*, or great *Council*, we may observe, that the **Men** that **consulted** about the *Kings* demands, that gave the *King* **answer** concerning them, and that **granted** the **fifteenth** *part* of the **Moveables**, as well of the *Ecclesiasticks*, as *Laicks* of the whole *Kingdom*, were only the **Arch-Bishops**, **Bishops**, **Earls**, **Barons**, **Abbats**, and **Priors**. And therefore **they** the only **constituent parts** of **this** *Parliamett*, as they were also of the *Parliament* or great *Council* held at **Merton** in the 20th year of this *Kings Reign*. Whither says *Mat. Paris*, *Consummato cum gaudio Nuptiali convivio Rex recedens a Lundoniis venit* **Meretonam**, *ut ibi revocati* **Magnates** *unà cum Rege de Regni negotiis contrectarent.* After the *Nuptial* Entertainment the *King* retired to **Merton**, and called thither the **great Men**, that together with Him they might treat about the *Business* of the *Kingdom*; not one word of the **Commons** in either place.

They were Bishops, Earls, Barons, Abbats, and Priors only that granted the 15th, mentioned in *Magna Charta*. *Pultons* Stat. fol. 9. the Preamble to the Statutes of *Merton*. Fol.421.n.40. At the *Priory* of the Town of *Merton* in in *Surrey*.

Having before evinced the meaning of the words **Clerus** and **Populus**, I cannot foresee what *Cavil* can be raised about this *Narrative* of this *Parliament*, unless some men may think there may be something

thing more than ordinary, couched in the words **solennitate plena**; which signifie nothing but a great or full Appearance at the Solemnity of *Christmas* in the King's Court; or if they will strain the sense of the word further, in relation to the great Council, or Parliament it self, they then signifie no more than that it was a **full Parliament**, and that there was a great appearance of the Members or Constituent parts of it; and who they were in other full Conferences or Parliaments, may be seen in the following instances.

The meaning of *Solennitate Completa.*

Convenerant Regiâ submonitione convocati Londinum **Magnates** *totius regni* **Archiepiscopi, Episcopi, Abbates, Priores, Comites & Barones.** There met at *London*, by the Kings Summons, the great Men of the whole Nation, the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons, and this Meeting was so full and great, that **these** Orders particularly, and no other men whatsoever mixed with them, or mentioned to be in the same Assembly, are are called the **Common Univerty.**

Ib. fol. 639. n. 20. A. D 1244. 28 *Hen.* 3.

Ibid. lin. 22. The Common Universty,

Medio Quadragesimæ Edicto Regio convocata convenit ad Parliamentum **generalissimum totius** *Anglicani Regni* **totalis Nobilitas** *Londini, videlicet* **Prelatorum** *tam* **Abbatum & Priorum,** *quam* **Episcoporum, Comitum** *quoque &* **Baronum,** *ut de statu Regni,* &c.

Ibid. fol. 696. l. 1. An. D. 1246. 30 *Hen.* 3.

In the middle of *Lent*, called together by the *Kings Edict*, the **total Nobility** of the whole Kingdom of *England*, met at *London*, in a **most general** Parliament, that is to say, the Nobility of the Prelates as well Abbats and Priors, as of the Bishops, also the **Nobility** of the Earls and Barons, that they might treat of the state of the Kingdom, *&c.* No **Commons** in this most general Parliament.

A most general Parliament.

Et postea in Angliâ in **Parliamento** *Regis, ubi congregata fuerat* **totius Regni** *tam* **Cleri** *quam* **Militiæ** *generalis* **Universitas,** *deliberatum fuerit, ut ob reverentiam* **Domini Pape** *adhuc Nuntius,* &c. And afterwards in *England*, in the King's Parliament, where there had met the **general Universty** of the Kingdom, **as well** of the **Clergy** as of the **Militia**, it was deliberated for the reverence due to the Lord the **Pope**, there should yet be a Messenger sent from that whole **Universty**, &c.

Ibid. fol. 708. n. 30. An. D. 1246. The Universi ty of the Militia.

The Historian in this place relates the continuance of the **Popes** exactions upon the Kingdom, and recounts what was done for the preventing of them in the last most **general Parliament**, which is here called the **general Universty**, as well of the **Clergy**, that is, Arch-Bishops, Bishops, Abbats, Priors, as of the **Militia** (that is) of the **Earls, Barons**, and Tenents in *Capite*, who held their Lands immediately of the Crown in Military Service, and who only the King summoned in his ordinary Warlike Expeditions, all other **Military** Men of the Nation that held of them by Mean Tenure were obliged by their Acts, and so just they were in their publick Impositions, that I do not remember they ever put more upon their Tenants *pro rata*, than they bare themselves.

What that was.

What

P. 141. p. 193. * See it here in Append. n.

As to his closing Record, concerning the Prior of *Coventry*, which he says he happily found in the * Exchequer, either he understands it not, or the Observations he makes upon it, were designed to abuse his Readers.

The Record concerning the Prior of *Coventry*.

It appears by the Record, that the Prior 17 *Ed.* 3d, was attached to answer the Service of eight Knights Fees, withdrawn and concealed from the King and his Progenitors, by the Prior and his Predecessors, ever since the 29th of *Henry* the Third. The Prior appeared by *Henry de Stretford* his Attorney, and because the Barons would be fully informed for the King by the Rolls and Remembrances of the Exchequer, of certain things touching this Business; they gave the Prior time, by consent of *William de Thorp* the Kings Serjeant, from *Hillary* Term to fifteen days after *Easter*, to make a search, which not being fully done at that time, he had a day prefixed by the Court, which was the *Octaves* of *Trinity*, when it was found by search in the Roll of the 29th of *Hen.* 3d, under the Title Aid, to marry the Kings Eldest Daughter, that is to say, XX *s.* of every Knights Fee, that the Prior of *Coventry* rendred account of Ten Pounds for ten Knights Fees. And in the great Roll of the 32th of the same King, Intituled, The Aid of the Bishops, Abbots, Priors, granted to marry the Kings Sister to the Emperor *Frederick*, that is to say, of every Knights Fee two Marks, the Prior of *Coventry* rendred an account of twenty Marks for the same. From whence it is evident he held Ten Knights Fees of the King: In the Explication of this Record, and of this place, * these words are left out, *videlicet de quolibet Scuto duas Marcas*, which being compared with the twenty Marks the Prior accounted for in Gross, would have made out the number of Fees he held of the King. Afterwards the Prior and Convent in the Tenth of *Edward* the First, acknowledged the Service of two Knights Fees, in an Expedition and Service summoned against *Wales*, and compounded or fined for that Service in the Exchequer. In the 31th of the same King, the same Prior and Convent acknowledged the same Service of two Knights Fees in an Expedition against *Scotland*, and compounded or made fine for them in the Exchequer forty Pounds. In the 34th of the same King, upon the same Recognition, he made Fine in the Exchequer forty Marks, and upon the same Recognition or Acknowledgment of the Service of two Knights Fees only, in the Seventh of *Edward* the Second, the same Prior compounded with, or made Fine to the King Forty Marks.

The Prior had time given him to search for Records, &c.

* Petit. p. 142.

The Priors Plea.

Upon which search so made, and what was found in the Rolls produced in Court: The Prior Pleads, and says, that he and his Predecessors held all his Lands and Tenements, as well those he had in Demeasn, as those in Service, by the Service of two Knights Fees only; and that the King or his Progenitors, were never seised of any other Services from the Prior or his Predecessors, to be performed by Fine, or the Service of the Bodies of men, as it may appear by this Search. And for that it was found in the Rolls of *Henry* the Third, that the Prior of *Coventry* had accounted for several Sums, to make his Son Knight, and to marry his Sister; this ought not to prejudice him, for he says, those Aids were not, nor could be accounted Services, and

and were certain *Subsidies* granted by the *Great Men* and *Community* of the Kingdom, on *meer free Will*; And *desires* Judgment, whether, if he held all his Lands and Tenements, by the Service of two Knights Fees only; and it not being found in the Exchequer, that the King or his Progenitors ever were seized of any other, or more Services, by the hands of the said Prior, or his Predecessors, he ought to be *impeached* or *challenged* for any *Fee* or *Service* concealed.

A Whereupon, the *Kings Serjeants took time* to *deliberate upon their Answer*, and the *Prior* had *day given* him, from *Term* to *Term*, until *Michaelmas-Term* in the Twentieth year of *Edward* the Third, above two years.

Will de Thorp, and John de Stoford.

Upon this *Record*, I shall observe, first, That the *Priors Plea was false*, for in the time of *Henry* the Second, the *Prior* of *Coventry* Certified under his Seal, that he held of the King *ten Knights Fees*.

Observations on the Record.

B *Prior de Coventre habet* de **veteri Feofamento** *fefatos Septem Milites & tertiam partem unius Militis, & duas quintas partes Militis, & Decimam partem Militis, & super Dominium ejus Quantum sufficit ad perficiendum Decem Milites.* The *Prior* of *Coventry* hath of the *Old Feofment seven Knights Fees*, a third part, two fifth parts, and a tenth part of a Knights Fee; and upon his *Demeasnes*, as much, as will make *ten* Knights Fees.

Liber Rub. in Scac Tit. Warwicscire. This is the Certificate mentioned in the Record.

C And it appears upon *Record*, that the *Prior* of *Coventry* Compounded with the King, for the *Service* of *ten Knights Fees*, in the 13 of *Hen.* 3. and that by virtue of the Kings Writ, he had *Scutage* of his *Tenents* that held of him, 40 *s.* of every Knights Fee.

Prior de Coventre finem fecit cum Rege ut Quietus sit hac vice de **Servitio** *suo cum Rege mittendo ad partes Transmarinas, in hac instanti transfretatione sua post festum St. Michaelis Anno, &c.* 13. &

Cl 13 *Hen.* 3. *m.* 3. *pro Priore de Coventre.*

D *pro habendo* **Scutagio suo** *de feodis* **Decem Militum,** *Quæ de Rege tenent in Capite, scilicet de scuto* **tres Marcas** *pro exercitu Regis, ad eandem Transfretrationem, Et mandatum est Vicecom. Warw. & Leicestr. quod de predicto* **servitio** *suo pacem ei habere permittat, Et ei habere faciat* **Scutagium suum** *de predictis feodis in Balliva sua sicut predictum est* 4 *die Octob.*

Scutage levied on the Tenents of the Prior by the Kings Writ.

The like though not so particularly, appears upon *Record* in the

Rot. de Scutag. 31 *Ed.* 1.

E 31 of *Ed.* 1. *Prior de Coventr. qui finem fecit, &c. habet Scutagium suum in Com. Warw. Leycestr. Northt. Glouc. Wigorn. T. R. apud Fyndon.* 19 *die Junii.* In these Counties *Leofric* the Founder of this Monastery gave unto it, *twenty two Towns* and *an half*; which might very well be rated at ten Knights Fees, at the least.

Monast. Angl. vol. 1. *f.* 30.

Further it is evident, that however the Entry was made of two Knights Fees only, yet the *Composition* or *Fine* was in respect of the

F *Service* withdrawn, and *for ten Knights Fees*, which was forty Pounds, and forty Marks, that is four Pounds, and four Marks for each Fee, which was also a great or perhaps the greatest Rate ever set upon one Expedition: such Sums as *twenty Pounds*, and *twenty Marks* a Fee, not being to be found upon any of the *Chequer*, or *Scutage* Rolls, or perhaps ever *known* or *heard* of.

P. 144. Neglig nce of the Kings Serjeants.

Secondly, I shall observe, That if this *Plea* was *allowed*, as our Author says it was, the *Kings Serjeants* were very *negligent*, or *ignorant* in affairs of the Chequer, or both, and minded their own business of getting Money, more than the Kings; for it doth not appear by the *Record*, that either they searched the *Rolls* themselves, or set any other to search them for the King, but trusted the Prior of *Coventry*, or his Agents to do it. Then for the several *Fines* and *Compositions* for two Knights Fees, at *forty Pounds*, and *forty Marks*, at several times, if they had *understood* the way of proceeding in the *Exchequer*, there were never any such Sums as *twenty Pounds*, and *twenty Marks* paid for a *Fine* or *Composition* for *one single Expedition*, and for *one Knights Fee*; and that therefore they must have known, such a *great Composition* or *Fine*, was for *Service withdrawn*, and for *more* Fees than *two*, nay for *ten* at least according to the *rate* of *Fines* in those times, and so would have rejected the Plea. A

Tenents of the Prior Taxed as the Tenents of others Tenents in *Capite*.

Thirdly, I shall observe, That the *Tenents* of the *Prior*, as the *Tenents* of other *Tenents in Capite*, were Charged, and Taxed by the *Kings Writ*, by reason of his *Prerogative*, and Original *right* in *Military Fees*, as plainly it is manifest, beyond all doubt, by the *Record* of the 13th of *Hen.* 3. before cited, relating particularly to this matter, and also from many other *Records* produced to prove the same, where we have Discoursed of the *Barones Regis & Regni*: and that therefore the *Tenents* of the *Prior* did not *grant* any *Ayds* in *Parliament*, as well as the *Prior* himself, as this Writer most ignorantly, and ridiculously affirms; So that this Record and the falsity of the Priors Plea being truly understood, his Deductions from and Observations upon it are false and groundless. B C

P. 144.

AND now I have done with his Book, it will be necessary to deliver matter of Fact, concerning this famous *Parliament*, summoned to meet on the Octaves of *Hillary*, or the 20th of *January*, 49th of *Henry* the Third, by which any man may understand what it was, and how it was called. But to clear the way to it, something must be said what was done some years before. There never was any great kindness between the *King* and *Simon Montfort Earl* of *Leycester*, since he first Corrupted and then Married his Sister *Alienor* Widow of *William Marshall Earl* of *Pembrooke*, by which Marriage not only the *King*, but all the *Nobility* was dissatisfied; whereupon he gathered up a great Sum of Money, and went to *Rome* to get his Marriage confirmed, which by the *Clergy* and *Nobility* of *England* was accounted unlawful, she having before *vowed Chastity*. At Rome by *Bribery* (notwithstanding the *Arch-Bishop* of *Canterbury* had signified the truth to the *Pope*) vouching the Kings consent, though utterly ignorant of his intentions, he got the Marriage confirmed; and though the *King* heaped many favours upon him, yet there never was true affection between them; and after a great falling out between him and the *Kings* half Brother by the Mother, *William de Valentia*, he took all occasions through him and his three Brothers, *Guido*, and *Geofrey de Lusignan*, and *Athelmar* or *Adomar Bishop* Elect of *Winchester* (to whom the King used more indulgence than was seasonable at that time) to wound the *Kings* Reputation. D E F

Montfort Corrupted the Kings Sister before he Married her. *Paris* fol. 468. n. 40.

Ibid. fol. 471. n. 10, 20.

Ibid. fol. 497. n. 50. 498 lin. 1. &c

Pat. 42 *Hen.* 3. m. 9.

In

In the year 1258. there was a *Parliament* called at *London* on *Tuesday* being *Hokeday*, which is on the *Quindene* of *Easter*, that is, *Tuesday* fortnight after *Easter Tuesday*. The King called it about the Business of *Apulia*, and expected Money from it to proceed in that *Affair*; but instead of that he met with nothing but *Altercations* and *Debates*, and *Enumerations* of *Grievances*, and *Complaints* against himself, that slighting the *keys* and *power* of the *Church*, he did not observe the *Tenor* of the *great Charter*, that he had raised to Dignities and Riches his half Brothers, intolerably against Law and Right, as if they had been the natural People of the Land, and although the Pride of all the *Kings* Brothers, and other *Poictovins* was intolerable, yet *William de Valentia* exceeded them all. *Simon Montfort* perceiving the dissatisfaction of several of the great Men in this *Parliament*, strikes in for his share in the *Reformation*, and immediately to the last words the *Historian* subjoins: from whence chiefly the *Earl* of *Leycester* complained very heartily, yet not to the *King*, but to the **University**, calling for *Justice*. And the *King* was upbraided that he promoted, and enriched all Aliens, and slighted and wasted his own People, to the Subversion of the whole Kingdom, and was then also checked that he could not repel the injuries of the *pitiful Welsh*. After these *wranglings*, the *Parliament* was adjourned to the *Feast* of *St. Barnaby*; and then to be held at *Oxford*. But during the recess we may note, notwithstanding the complaint against Aliens, *Montfort* himself was an **Alien** and Stranger, a **French man**, born of *French Parents*. He was younger Brother to *Almaric*, at this time *Earl* of *Montfort* in *France*, who was Son to *Simon*, and he Son to *Almaric*, who was *Bastard* to *Robert King* of *France*, and had the *Town* of *Montfort* given him, *&c.* from *whence* his name; and had gotten here in *England* as much Wealth as the best of them by the *Kings* favor and bounty.

Paris 963. n. 40.

Ibid. 968. n. 10. Grievances and Complaints against the King. And against his half Brothers.

Ibid. lin. 15.

Leycester calls for Justice.

Ibid. n. 20.

Dugd. Baron. Tom. 1. fol. 751. col. 2. *Montfort* an Alien a *French* man born.

Barnaby day being come, the *great Men* and Nobles of the Land, hastned to the *Parliament* to be held at *Oxford*, and commanded all such as ought them *Military Service*, to go along with them, so prepared, as if they were to defend their Bodies from attempts of their Enemies, and they did so, palliating their coming thus armed under pretence of going against the *Kings* Enemies the *Welsh*, and withal fearing as they pretended, that the King and his Brothers the *Poictovins* should bring in foreign Assistance against them, and therefore they placed *guards* upon the *Ports*; and being met, observing their *Force*, they there made certain Provisions or Statutes, as they called them, for the Reformation of the State of the Kingdom. They require,

Paris 970. n. 40. The Parliament at *Oxford*, 42 *H.* 3.

Ibid. n. 50.

Mat. Westm. fol. 391. lin. 4. n. 10.

1. *The Kings Confirmation of the* Charter *of* Liberties *granted by* King John.

Oxford Provisions.

2. *That there should be* 24 persons *chosen, which by the* Kings **Commission** *should take upon them the* **Government** *of the Kingdom.*

3. *They should choise the* **Justices**, **Chancellors**, **Treasurers**, *and other* **Officers** *and* **Ministers**, *from year to year for ever.*

4. *That they by* themselves *or* friends *should have the* Custody *of the* Kings Castles.

5. *That all* Aliens *should be* Banished *the Land, never to return again, except such as the* well affected *should permit to stay.*

Ibid. *Paris*, fol. 971. n. 20, 30.

And *threaten* the *King* and *Prince Edward* with perpetual Imprisonment if they *submit* not, and *sware* to the performance of them; And they by *Edict* made it Capital, for any of what *Degree*, or *Order* soever to refuse to consent to them. And against such also the *Arch-Bishops*, and *Bishops* of the Kingdom pronounced *Excommunication.* A

Ibid. n. 40. & fol. 973. n. 10.

John Earl of *Warren*, *William de Valentia*, and the other half Brothers of the King, refuse the Oath, and are forced out of *England*; the *Ports* are commanded by the *Barons* to be more strictly guarded, as also the Gates of *London* to be strengthned, and shut every night. Then they appoint *Hugh Bigod*, *Militem strenuum & Legum terræ peritum* Justiciarie, and break up their meeting; soon after they send their Agents to *London*; who in a full meeting of the *Citizens* in the *Guild-Hall*, demand of them whether they would immutably adhere unto, and faithfully obey the Statutes of the *Barons*, and manfully resist such as should oppose them, and likewise give them effectual assistance; whereunto they freely consented, and bound themselves by a *Chart*, or *Charter*, sealed with the Publick Seal of the City. B C

Ibid. fol. 974. lin. 1.

July 22. The *Londoners* consent to bind themselves by their Seal to observe the *Oxford* Provisions.

Ibid. n. 20.

Paris, a great Favourer of *Montforts* and the *Barons* Cause, says, That *Fulco Bishop* of *London*, because he would not joyn with them, was more tepid, and remiss, than became him, and incurred the Anger of the *Barons*, because he believed he might Justifie the King to the People. Not long after this Bishop died of the Plague, of whom the same Author says, he was *Vir Nobilis & Magnæ generositatis, & nisi paulò antè in* Communi *Baronum* prohibitione *titubasset, totius regni* anchora & clypeus *stabilitatis & defensionis.* A Noble Person, and of great *Generosity*, and unless a little before he had tripped in the *Provisions* of the *Barons*, he had been the *Anchor* of the whole *Kingdom*, and the *Shield* of Stability, and Defence. D

Ibidem, 987. n. 50.

The Provisions Ordered to be declared to the People. *Mat. Westm.* fol. 370. n. 10.

Paris, fol. 991. n. 40, 50. The King turns out the Barons Justiciary, and Chancellor. *West.* fol. 379. n. 20. & 380. n. 40.

These Provisions which were ordered by the *Barons* to be declared and expounded to the People by the Itinerant Justices of their own appointing, in their Circuits, were the foundation of all the ensuing Mischiefs: for the *King* finding himself Unkinged by them, and the Barons so stiff, as they would not yield in the least; he procured of the Pope Absolution from his Oath, and then took upon him the *Government* again, and turned out of their places the *Barons Justiciary* and *Chancellor*, and went about to his *Cities*, and *Castles*, incouraging them to stand to him. E F

1261. He likewise sent about his own *Justices* Itinerant through *England*, to whom the *Barons* opposed themselves, and incouraged the People not to appear, or bring any business before them, because, according to their Provisions they were to set in one County but once in *seven year.* The King proceeds, and placeth new Sheriffs in

in every County, *removing* such as the *Barons* had made *Sheriffs*, who resolving to make good the *Oxford Provisions*, by the *Counsel* and Assistance of *Simon Montfort*, Armed themselves, and on a sudden, when they thought not of it, fell upon the *Aliens*, the *Kings Counsellors*, and all they knew adhered to him, and in a *Hostile* manner *seized* upon their Estates, Places of Strength, Towns and Goods.

Ibidem, 382. n. 40. And the Sheriffs made by the Barons.

A

When these things were done, the King was in the *Tower* of *London*, and seeing himself surrounded with his Enemies, He consented to a Peace with the Barons upon these Terms.

Ibidem, fol. 383. n. 20. *Paris*, 992. n. 40, 50. An. Dom. 1264. *Westm.* 383. n. 30.

First, That *Henry*, *Son* to the King of *Almaine*, should have his Liberty.

B *Secondly*, That the *Kings Castles* should be put into the hands of his *Barons*.

Paris, 993. n. 10. An. Dom. 1264.

Thirdly, That the Statutes and Provisions of *Oxford* should be inviolably observed, as well by the King as others.

Articles of Peace.

Fourthly, That all *Strangers*, except such as the *Well-Affected* should think fit, should presently avoid the *Nation*, never to return

C again.

But the *King* having some Advantage, and most of the Twenty Four being willing the Provisions of *Oxford* should be made less rigid, and more easie to him, *both Sides* Referred their Differences to the King of France, who Nulled the Provisions of Oxford; but by evacuating them, he did intend altogether to Abrogate *King John's Charter*, upon which Exception, *Montfort* and others took

Mat. West. fol. 391. n. 40.

Paris, 992. n. 10. Ibidem. Ibid. *Montfort* refuseth to submit to the King of *France* his Sentence.

D advantage, and said, The Provisions were *founded* upon that *Charter*, and therefore would not submit to the *King* of *France* his *Sentence*.

From that time, *Henry*, Son to the *King* of *Almain*, *Roger de Clifford*, *Roger de Leybourn*, *John de Vallibus*, *Hamo le Estrange*, and many other *Barons* left *Montfort*, and *Roger de Mortuo Mari*, who ever was true to the King, wasted his Lands and Estate; But he Confederating with *Leolin Prince* of *Wales*, sent an Army thither

Ibidem, fol. 992. n 20. Some of the Barons revolt from *Montfort* Ibidem, n. 30. *Mat. Westm.* 385. n. 20.

E that Invaded, Destroyed, and Burnt the *Lands* and *Estate* of *Roger*. The *Londoners* also Destroy and Burn the Estates of such as adhered to the *King*, and Imprison the *Barons* of the *Exchequer*, and *Justices* of the *Bench*; while the *King*, by the *Assistance* of the *Barons* that adhered to him, took *Northampton* Town and *Castle*, with Fifteen of the *Rebellious Barons* in it.

The *Londoners* Imprison the Judges. *Paris*, fol. 993. lin. 1. &c.

The War thus begun, and the *Earl* of *Leicester* being made Ge-

F neral, to delude the People, the *Earl* of *Clare* and *Glouc*ester joyning with him; They sent *Letters* to the *King*, professing their *Loyalty* to him, and affirming, that they did thus put themselves into Arms, as well against his Enemies, as their own.

Ibidem, fol. 994. n. 20. The Barons write Delusive Letters to the King.

To

Ibidem, n. 30. The Kings Answer to the Barons Letters.

To which the *King* returned, That their *Intentions* were not according to their *Professions*, nor their *Actions* according to their *Pretences*, and therefore defied them. His Answer was dated at *Lewes*, *May* 12. 48 *Hen.* 3. 1264.

Ibidem, n. 40.

Ibidem, fol. 995. l. n. 3.

In like manner, *Richard King* of the *Romans*, *Prince Edward*, and all the *Barons*, and *Knights* that adhered to the *King*, Wrote to them, and defied them, but withal provoked them to stand to the *Judgment* of the *Kings* Court, to which they were ready to submit, and make their Innocence appear. These Letters were Dated the same day. A

Ibidem, n. 10.

At this time al least 360000 *l.*

After this the *Rebellious Barons* sent *Henry Bishop* of *London*, and *William Bishop* of *Worcester* their Mediators for Peace, to the *King*, and offered, for *Damages* done by them through the *Kingdom*, 30000 *l.* so that the *Statutes* of *Oxford* might stand good. B

Ibidem, n. 20, 30. The Battel of *Lewes*.

Ibidem, n. 40, 50.

Ibidem, & fol. 995. l. 1. & n. 10.

The King not accepting their Offer, they March toward *Lewes* in *Sussex*, where he then was, who hearing of their coming, advanced toward them; The *Battel* being joyned, *Prince Edward* ingaged the *Londoners*, and beating them, made too great a Pursuit, so that before his return, the other part of the *Kings Army* was routed, and his Father having his Horse killed under him, was, with *Richard King* of *Almain*, taken *Prisoner*, and many other *Barons*; C but still the *Castle* making a stout defence against the *Barons*, at which the Prince took Courage, and rallied his Forces, with design to try the fortune of another Battel, which *Montfort* and his *Confederates* perceiving, they sent Mediators for Peace, promising the next day they would effectually Treat of Peace, which was done by the Mediation and Entercourse of the *Fryers Preachers*, and the *Fryers Minors*, between both Parties, and the issue was this. That

Ibidem, n. 10. *Montfort* offers a Treaty.

Mat. Westm. fol. 39. n 40, 50.

both Parties should apply themselves to the *King* of *France*, and D procure him to choose three *Prelats*, and three *Noblemen* of *France*, which six should nominate two *Frenchmen*, who coming into *England*, should choose a third Person, an *Englishman*; which three should determine all Controversies between the *King*, and *Barons*, and order all things concerning the *State* of the *Kingdom*. And for the Confirmation of this, both Parties took their Corporal Oaths, and there being an Instrument made of it, the Kings Seal, and the

This Instrument is called, The *Mise* made at *Lewes*. Pat. 48 *H.* 3. m. 6. Dors.

Seal of the *Barons* was affixed to it. And in the mean time *Prince* E *Edward*, and *Henry* the eldest Son of the *King* of *Almain*, remained Hostages with *Montfort*, upon hopes of Peace, and a Deliberate Treaty about the Provisions at *Oxford*, and such things as might be found expedient for the quiet and safety of the Nation. But when *Montfort* had *King Henry*, his *Brother Richard King of the Romans*, *their Sons Edward and Henry*, and many others of the *Nobility* Prisoners, and carrying about with him the *King* and *Prince*, until he had taken in all the Strong *Forts*, and *Castles* of the Land, he grew F more averse, and difficult to treat of the Form, as it had been agreed at *Lewes*; And then making *King Richard* Prisoner in the *Tower*, he sent *Prince Edward* and his *Cousin Henry* to *Dover-Castle*, but carried the King about with him where ever he went, and spoiled all those that faithfully adhered to him, or that at any time had served him, of all their moveable Goods.

Prince *Edward* an Hostage for Peace. *Paris*, fol. 996. n. 40.

Montfort grows averse to Peace. Ibid.

Mat. Westm. fol. 394. lin. 2.

And,

And, *posthæc convenientibus Londini Prælatis, Comitibus, & Baronibus,* **parris illius** *quæ Regem suum tam seditiosè tenuit captivatum,* **compromissi Lewensis & prestiti Juramenti,** *imò* **sue salutis** *immemores, ad* **Novas Ordinationes** *Regni se convertere Curaverunt*; After these things the *Prelats, Earls,* and *Barons* of **that Party,** *which seditiously* held their King Prisoner, met at *London,* and unmindful of the *Compromise* at *Lewes,* the Oath they had taken, and their *own Salvation,* they bethought themselves of *New Ordinances* for the *Government* of the *Kingdom*; they Ordained, *Inter cætera statuerunt quod* **duo Comites,** *&* **unus Episcopus** *ex parte ipsius* **Communitatis** *Electi,* **Novem personas** *eligerent, quorum tres Regi assisterent, & de Consilio eorum* **trium,** *&* **Novem,** *tam in Domo Regiâ quam in Regno procederent Universa; & quod à Rege, sine illorum saltem trium Consilio, aliquid fieri non valeret.* Among other things, that two **Earls,** and one **Bishop,** elected by the Community; should choose **Nine** Persons, of which three should assist the King, and by the Counsel of those **Three,** and **Nine,** all the *Affairs,* as well of the Kings House, as of the Kingdom, should be directed, and that what the King should do without the Advice of them, at least of the three, should signifie nothing. *Sicque* **Comitibus Leycestriæ,** *&* **Glovernie,** *&* **Episcopo Citestrensi** (who promised, all that Fought stoutly against the King, and were killed in the Battel of *Lewes,* immediate entrance into Heaven) **Consiliariis** *&* **Capitaneis** *ordinatis.* And so the *Earls* of *Leycester,* and *Gloucester,* and *Bishop* of *Chichester,* were ordained the three *Chief Counsellors.*

Ibidem, lin. 3.

No Commons here though in the Record 'tis said, *Et communitatis præsentis,* as before is noted.

Ibidem, lin. 6.

This exactly agrees with the Record before cited, *Pat.* 48 *Hen.* 3. m. 6. Dors. Two Earls, and one Bishop to choose Nine Persons to Govern the Kingdom.

Ibidem, n. 10. *Paris,* fol. 995. n. 20. He forgot Purgatory. *Pat.* 48. *Hen.* 3. m. 10.

Then *threatning* the *King* they would choose Another, and the *Prince,* to *keep him perpetually in Prison, Commento fraudis consentire coacti sunt,* they were compelled to *Consent* to this *Cheat.* To which, being drawn up into an Instrument, the *Bishops, Earls,* and *Barons,* set their *Seals.* The Record says, *Hæc autem Ordinatio facta fuit in London de consensu, voluntate, & præcepto Domini Regis nec non Prælatorum, Baronum, ac etiam* **Communitatis** *præsentis. In cujus Rei Testimonium Domini,* **R. Lincoln,** *&* **Hug. Elien.** *Episcopi* **R. Com. Norf.** *& Mar. Angl.* **Rob. de Ver. Com. Oxon. Humfr. de Bohun, William de Monte-Canisio,** *&* **Major Lond.** *Signa sua huic Scripturæ apposuerunt. Actum in* **Parliamento** *London. Mense Junii, An. Dom.* 1264. That is,

Mat. Westm. fol. 394. lin. 13.

Pat. 48. *Hen.* 3. m. 6. Dors. See here before in this Book. Witnesses to the Instrument of Government.

This Ordination was made in *London,* by the *consent,* and *good liking,* and *command* of the *King,* and also of the *Prelats, Barons,* and the **Community** present. In witness whereof the Lords *Bishops, R.* of *Lincoln,* and *Hugh* of *Ely, R.* Earl of *Norfolk,* and *Marshal* of *England, Robert de Vere* Earl of *Oxford, Humphrey de Bohun, William de Montchensy,* and the Mayor of *London,* have set to their Seals. Done in the Parliament at *London,* in the Month of *June,* 1264.

Concerning this Parliament, and these Men, see before in this Book.

Having contrived and perfected these Ordinances, they sent Letters to the *Bishop* of *Sabine Cardinal,* and then the *Popes Legat* in *France,* and to the *Illustrious King* of *France,* that they would utterly Annul the Compromise made at *Lewes,* and establish this new Peace made by an Amicable consent of both Parties; And the *Bishops*

Mat. Westm. fol. 394. lin. 16.

Ibidem, lin. 18, 19.

They use means to the Legat to Confirm the Instrument of Government.

ſhops of *London*, *Wincheſter*, and *Worceſter*, and ſome others of the Province of *Canterbury*, earneſtly beſeeched the aforeſaid *Legat*, that he would be very ready to *promote* that Peace. And not long after, *viz.* on the *Saturday* after the Nativity of the *Bleſſed Virgin*, which is *September* the 8th, the *Biſhops* of *London*, *Worceſter*, and *Wincheſter*, with *Hugh D'eſpencer*, Juſticiary of *England*, *Peter Montfort*, and *Richard de Mepham Arch-deacon* of *Oxford*, were conſtituted *Procurators*, and *Commiſſioners*, to Treat in the Preſence of the *Magnificent Prince*, the *Illuſtrious King* of *France*, and the *Venerable Father*, G. *Biſhop of Sabine*, and *Legat* of the *Apoſtolick See*, or either of them, about the Reformation of the State of the Kingdom of *England*, with Power to do whatever they thought fit in this matter, with a ſpecial Clauſe of Power to Peter Montfort, that what he ſhould Sware to, the King muſt be obliged to it. A

Reformation of the State of the Kingdom.

What this *Peter Montfort* was, ſee before in this Book.

Pat. 48 *Hen.* 3. m. 4. Dorſ.

The Kings Patent, &c.

Rex omnibus, &c. *Salutem. Noverit Univerſitas veſtra quod Nos Ordinamus & conſtituimus Ven. Patr. H. Lond. W. Wigorn. & J. Winton. Epiſcopos. Et Nobiles viros Hug. Diſpenſatorem Juſticiar. Angl. & Petr. de Monteforti & Magiſtrum Ricardum de Mepham Archidiacon. Oxon. procuratores & Nuntios Noſtros, &c.* as it is Tranſlated verbatim. *Dat. apud Cantuar. Die Sabbati prox. poſt feſtum Nativitatis Beatæ Virginis, An. Dom.* 1264. B

Paris, fol. 1001. n. 40.

The Intent of all this Addreſs to the Legat was no other, than to palliate theſe Practices towards the King with fair and ſpecious Pretences to the Pope, leſt he ſhould thunder out his Curſes (as he did afterwards by his Legat Ottobon) againſt them. C

Pat. 49 *Hen.* 3. m. 6.

He began his Reign, *Octob.* 19. 1216.

Montfort extorts a Grant of the Earldom of *Cheſter* from the Prince.

While theſe *Barons* were in this Power, *Montfort* extorted from the Prince a grant of the Inheritance of the *Earldom* and *Honor* of *Cheſter*, with its *Appurtenances*; and cauſed another Patent, Dated *December* 24, to be Sealed in the Kings Name for ratifying of it. He paſſed alſo on the 20th of *May* following another Patent of that *Earldom* and *Honor*, as alſo of the *Caſtle*, and *Honor* of *Pec.* with the *Caſtle*, and *Town* of *Newcaſtle Underline* in *Staffordſhire*, to himſelf and Heirs. D

Pat. 48 *Hen.* 3. m. 11.

The Earl of *Glouceſter* gets the Eſtate of *John Warren* Earl of *Surrey*.

Nor was the *Earl* of *Glouceſter* unmindful of himſelf, for he procured a Grant of all the ſmall Eſtate of *John de Warren Earl of Surry*, who had faithfully adhered to the *King*, lying in *England*, except the *Caſtles* of *Rigate*, and *Lewes*. E

Pat. 49 *Hen.* 3. m. 26.

Peter Montfort gets a great Eſtate, and the Princes Lodgings.

Nor did *Peter Montfort* forget to inrich himſelf, for having obtained the Government of *Whittenton Caſtle* in *Shropſhire*, and of *Hereford Caſtle*, and other things of value; for a further conveniency in his high truſts, he procured a Grant of *Prince Edwards Lodgings at Weſtminſter*. F

Ibidem, m. 20.

They ſend out Writs in the Kings Name to Summon a Parliament.

After theſe Great Things done, and a New Government was framed, and ſet up, they ſent out *Writs* in the *Kings Name* unto divers *Biſhops*, *Abbats*, and *Priors*, and to ſuch of the *Noblemen*, as were of their own party. To the *Sheriffs* of *Counties*, *Cities*, *Burghs*, and the *Cinque-Ports*.

The

The first was to the Bishop of *Durham* in this Form.

Henricus Dei Gratia Rex Anglicæ, Dominus Hiberniæ, & Dux Aquitaniæ; Ven. in Christo Patri R. eâdem gratiâ Episcopo Dunelmensi, Salutem. Cum post gravia turbationum discrimina dudum habita in regno nostro, Charissimus filius Edwardus Primogenitus noster pro pace in regno nostro assecurandâ & servandâ Obses traditus Extitisset; & jam sedatâ (Benedictus Deus) turbatione prædictâ super deliberatione ejusdem salubriter providendâ, ac plenâ securitate, tranquillitate & pace ad honorem Dei & utilitatem totius Regni nostri firmandâ & totaliter complenda, ac super quibusdam aliis regni nostri negotiis, quæ sine consilio vestro, & aliorum Prælatorum & Magnatum **nostrorum** *nolumus expediri, cum eisdem tractatum habere nos oporteat, vobis Mandamus rogantes in* fide, & dilectione *quibus nobis tenemini, quod omni Occasione post-positâ, & negotiis aliis prætermissis, sitis ad nos* Londini *in* **Octabis** *Sancti* Hillarii *proximè futuris nobiscum, & cum prædictis Prælatis, & Magnatibus nostris quos ibidem vocari fecimus super præmissis tractaturi; & Consilium impensuri. Et hoc sicut nos & honorem nostrum & vestrum, nec non & Communem Regni nostri tranquillitatem diligitis, nullatenùs omittatis. Teste Rege apud* Wigorniam, 14 *die* December.

Cl. 49 H. 3. m. 11. Dors. in Schedula. The *Writ.*

He began His Reign, *October* 19. 1216.

Henry, By the Grace of God, King of *England*, Lord of *Ireland*, and Duke of *Aquitain*, to the Venerable Father in *Christ*, *R.* by the same Grace Bishop of *Durham*, Greeting, Whereas, after great Troubles and Confusions in our Kingdom, Our Eldest Son **Edward** was delivered an **Hostage** for the securing and establishing Peace. And the said Troubles (Blessed be God) being now over, for the delivery of him out of Prison, and the setling of a full *Security*, *Tranquillity* and *Peace*, to the **Honor** of *God*, and the profit of the whole Kingdom; and for transacting some other business of the Kingdom, which without your Counsel, and the Counsel of others of Our *Prelats* and *Great Men*, we would not dispatch, and with whom we ought to Treat. We command you, requiring, that in the Faith and Love by which you are bound to us, that every occasion being post-poned, and all business laid aside, you be with us at *London*, in the *Octaves* of St. *Hillary* next coming, to Treat with Us and Our Prelats, and Great Men, which we have caused to be called thither, and to give your Advice upon the Premises; and this as you love Us, Our Honor, and your own, and also the Common Tranquillity of Our Kingdom, ye may in no wise omit.

The Writ of Summons, 49 *Hen.* 3.

These *Octaves* are *Jan.* 20.

Witness the King at *Worcester*, 14th day of *December*.

Eodem modo Mandatum est.

Episcopo Carleol.
Abbati Sanctæ Mariæ Ebor.
Priori Dunelm.
Priori Sanctæ Trin. Ebor.
Abbati de Seleby.
Abbati de Furnes.
Abbati de Fontibus.
Abbati de Ryeval.
Abbati de Melsa.
Abbati de Rupe.
Abbati de Bellalanda.
Priori de Bridlington.
Priori Sancti Oswaldi.
Abb. de Rufford.
Pr. de Blida.
Pr. de Thurgarton.
Pr. Carleol.
Abb. de Whiteby.
Pr. de Giseburn.
Archiepisc. Ebor.
Priori de Parco.
Decano Ebor.

Eodem modo Mandatum est subscriptis, viz.

Episcopo London.
Episc. Winton.
Episc. Oxon.
Episc. Wygorn.
Episc. Lincoln.
Episc. Elien.
Episc. Sarum.
Episc. Cov. & Litch.
Episc. Ciceſtren.
Electo Bathon. & Well.
Decano Exon.
Decano de Welles.
Decano Sarum.
Decano Lincoln.

Four of these Bishops were Excommunicated by the Pope for their Rebellion, *London*, *Winton*, *Worcester*, and *Chichester*; and surely they were notable Rebels that he would Excommunicate; and two others of them, *Lincoln* and *Ely*, were Parties to the *New Instrument* of Government, and the rest no doubt of the same Batch.

In forma prædicta Scribitur Abbatibus & Prioribus subscriptis sub hac data. Teste Rege apud Wodstoke 24 *die* Decembris.

Abbati Sancti Edmundi.
Abbati de Waultam.
Abbati de Sancto Albano.
Electo de Evesham.
Abb. Westmonasterii.
Abb. Glaston.
Abb. de Reading.
Abb. de Cirenceſtre.
Abb. de Waverle.
Priori Elienſi.
Pr. Norwicenſi.
Pr. de Merton.
Abb. de Oseney.
Pri. S. Fridswid, Oxon.
Abb. de Messenden.
Pr. de Lanton.
Abb. de Bello.
Priori ordinis de Semprinham.
Pr. de Walton.
Pr. Hospitalis St. Johan. Hierusalem *in* Angliâ.
Magistro Militiæ Templi *in* Angliâ.
Abbati de Rameſie.
Abb. de Burgo.
Abb. de Thorney.
Abb. de Crowland.
Abb. Ceſtriæ.
Abb. Salop.
Abb. de Hulmo.
Abb. de Bardenei.
Abb. de Colceſtre.

Priori

Priori de Dunstable.
Abb. de Bello loco.
Abb. de Parco Ludæ.
Abb. de Stanleigh.
Abb. de Lillesshull.
Abb. de Biltlesden.
Priori de Bevoir.
A *Priori de* Lewes.
Abbati de Clerevaus.
Priori de Stodeley.
Abb. Sancti Augustini Cantuar.
Abb. de Certesey.
Pr. S. Trinit. Cantuar.
Abb. de Hida Wynton.
Abb. de Middleton.
B *Abb. de* Cerne.
Abb. de Abbotsburie.
Abb. de Tavestock.
Pr. de Huntingdon.
Abb. de Suleby.
Abb. de Wardon.
Abb. St. Jacobi Northampt.
Abb. de Leicester.
C *Abb. de* Kirksted.
Pr. de Eton.
Pr. de Cruce-Roys.
Abb. de Kirkstall.
Abb. de Tame.
Pr. de Bermondsei.
Pr. de Bernwell.
Abb. de Morevall.
Abb. S. Augustini Bristoll.
Abb. de Malmesburie.
Abb. de Michelnei.
Abb. de Abindone.
Abb. S. Petri. Glouc.
Abb. de Persoure.
Abb. de Wynchecomb.
Pr. de Conventre.
Pr. de S. Neoto.
Pr. S. Swithini Wynton.
Abb. de Lesnes.
Pr. de Leedes.
Pr. de Landa.
Pr. de Spalding.
Pr. St. Barthol. London.
Pr. de Kenilworth.
Abb. de Osulveston.
Abb. de Teukesburie.
Pr. de Finsheved.
Abb. de Middleton.
Abb. de Valledei.
Abb. de Croxden.

The Reason why there was so many *Abbats* and *Priors* Summoned, was, because he thought himself sure of them ; he was a Great Zealot, and a Godly Man in those times, a Great Minion of
D these Religious Men (as then called) as also of the *Bishops* and *Clergy*, and they at least seemingly Great Favorites of his, *Paris*, *fol.* 995. 10. 998. 30.

Item in formâ prædictâ mandatum est Comitibus & aliis subscriptis.
Dat. apud Wodestoke *vicessimo quarto die* Decembris.

E COmiti Leicest.
Comiti Glouceſtr.
Comiti Norfolciæ, *& Marescallo* Angliæ.
Comiti Oxon.
Comiti Derb.
Radulpho *de* Camoys.
Rogero *de* S. Johanne.
F Hugoni *le* Despenser *Justiciario* Angliæ.
Johanni *filio* Johannis.
Willielmo *de* Munchensi.
Nicholao *de* Segrave.
Johanni *de* Vesci.
Radulpho Basset *de* Drayton.
Henrico *de* Hastings.
Galfrido *de* Lucy.
Roberto *de* Ros.
Johanni *de* Eyvill.
Adæ *de* Novomercato.
Waltero *de* Colevill.
Willielmo Marmyon.
Rogero Bertram.
Radulpho Basset *de* Sapcote.
Gilberto *de* Gaunt.

These Earls and Barons were all in Arms against the King, as may be seen in *Mat. Paris*, *Mat. Westminster*, *Dugdales Baronage*, *&c.*

Item Mandatum est singulis Vicecomitibus per Angliam *quod venire faciant duos milites de legalioribus & discretioribus militibus singulorum comitatuum ad Regem* London, *in* Octabis *prædictis in formâ supradicta.* Without date. A

It doth not appear by the Writ, whether the *Sheriffs*, or *Counties* were to Elect and send these Knights; The *Sheriffs* then were of the Faction, and made by them, and 'tis here said only, *Quod venire faciant.*

Item in forma prædictâ scribitur civibus Ebor. civibus Lincoln *& cæteris Burgis Angliæ quod mittant in formâ predicta duos de discretioribus & legalioribus & probioribus tam civibus quam Burgensibus suis.* Without date. B

Cl. 49 Hen. 3. m. 11. Dors. *in Schedula.*

Rex Baronibus & Ballivis portus sui de Sandwico, salutem. Cum Prelati & Nobiles Regni nostri tam pro negotio liberationis Edwardi *Primogeniti nostri quam pro aliis Communitatem Regni nostri tangentibus, ad instans Parliamentum nostrum quod erit* London *in* Octab. *Sancti Hillarii convocari fecimus, ubi vestra sicut & aliorum fidelium nostrorum præsentia plurimum indigemus. Vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes, omnibus aliis prætermissis, mittatis ad nos ibidem quatuor de Legalioribus & Discretioribus portus vestri. Ita quod sint ibid. in Octab. prædictis. Nobiscum & cum præfatis Magnatibus Regni nostri tractatum & super præmissis Consilium impensuri. Et hoc sicut honorem nostrum & vestrum, & communem utilitatem Regni nostri diligitis nullatenus omittatis. Teste Rege apud* West. 20 *die* Januar. C D

Similiter mandatum est singulis portubus pro se.

Lastly, I will add from other Membranes of this Roll, two other Writs, the one for the *Expences* of the Knights, which were summoned to this Convention or Parliament, and the other a *second* Writ, to the Sheriff of *Shropshire* and *Staffordshire*, to send four Knights for those *two* Counties to the *King*, and *Council*, where ever he should be in *England*, to *treat* and *speak* with them about the *Business* of that Parliament after it was Dissolved, because he had not caused any to come before to *London* in the *Octaves* of St. *Hillary*. E

Cl. 49 Hen. 3. m. 10. Dors.

The Writ for the Knights Expences.

Rex vicecomiti Eborum salutem, Cum nuper vocari fecimus Duos de Discretioribus Militibus singulorum Comitatuum nostrorum Angliæ, Quod essent ad nos in Parliamento nostro apud London in Octabis *St. Hillarii proximo preteriti ad* tractandum *nobiscum, & cum* Consilio *nostro, super Deliberatione Edwardi filii nostri charissimi, & securitate inde facienda, nec non &* aliis arduis *Regni nostri* Negotiis, *ac Iidem Milites moram Diuturniorem quam credebant traxerint ibidem, propter quod non Modicas fecerint Expensas, Cumque* Communitates Comitatuum F

tatuum *Dictorum varias hoc anno fecerint præstationes ad Defensionem Regni nostri, & Maxime partium maritimarum contra hostilem Adventum Alienigenarum, per Quod aliquantulum se nimium sentiunt gravatas, Tibi præcipimus quod* Duobus Militibus *qui pro Comunitate Dicti Comitatus prefato Parleamento interfuerunt*, De Consilio quatuor Legalium Militum *ejusdem Comitatus, rationabiles Expensas suas, in* veniendo *ad Dictum Parleamentum ibidem* Morando, *& inde ad partes suas* Redeundo *provideri, & eas de eadem Communitate levari facias, proviso quod ipsa* Communitas, *occasione præstationis istius ultra modum non gravetur. Teste Rege apud Westmonasterium 15 Die Febr.*

Knights had their Expences allowed for dispatch of Publick Country Buneſs though not Members of Parliament. *Rot. Pat. 42 Hen. 3. m. 3. & n. 9.*

Knights had their Expences allowed, not only as *Members* of Parliament, but also for transacting other publick Business for the common profit of Counties in the Counties, before the *King* and *Council*, or before the *Parliament*. In the 42 of *Hen.* 3. in the *Parliament*, or *Tumultuous Meeting*, held at *Oxford* by prorogation, on *Barnaby-day*, it was *Ordained*, That all *Excesses*, *Transgressions*, and *Injuries* done or committed, as well by Justices, Sheriffs, Bayliffs, or other Persons whatsoever should be inquired into, by *four Knights* in every County, by *Jury*, or *Juries*, of *Knights*, or others, to be summoned by the Sheriffs to come before them, and the *Inquisitions* so made, were to be *sealed* with their own *Seals*, and the *Seals* of the *Jurors*, and to be delivered by *their own proper persons*, to the Kings *Council* in *Parliament* at *Westminster eight days* after *Michaelmass*, and *Writs* issued this year to *four Knights* in every County to that purpose, dated on the fourth of *August*, who *made* their *Inquisitions* and *Returns* accordingly; And for their *dispatch* of this Business, and *Attendance* upon the *Kings Council* or *Parliament*, they *had* their *Expences allowed* them by the Counties, upon *Writs* to the *Sheriffs*. *Rex Vicecom. Hunt. salutem, Quia dilecti & fideles nostri W. le Moyne, Walter. de Walsingham, Simo de & Baldwinus de Drayton quibusdam Inquisitonibus faciendis pro Communi utilitate predicti Comitatus nuper attenderunt, & postea Coram* Consilio nostro *apud Westminster in Parliamento post festum Sancti Michaelis proxime preteritum pro dictis negotiis moram fecerunt Tibi precipimus quod predictis quatuor Militibus rationabiles Expensas suas, in* Eundo, redeundo, *& in prefato Parliamento, pro dictis negotiis* Morando, *de* Comunitate *dicti Comitatus habere facias. Teste Rege apud Westm. 4 die Novemb. Anno, &c.* 43. From the form of these Writs undoubtedly it was, that these words (*prout alias in Casu Consimili fieri Consuevit*) were inserted into ancient Writs for the *Expences* of *Knights*, *Citizens*, and *Burgesses*, after the words (*rationabiles Expensas suas in* veniendo *ad nos, ibidem* Morando, *& ad propria* redeundo) as in *Cl.* 28. *Ed.* 1. *m.* 12. *Dorſ. Cl.* 29. *Ed.* 1. *m.* 17. *Dorſ. Cl.* 33. *Ed.* 1. *m.* 15. *Dorſ. Cl.* 34. *Ed.* 1. *m.* 11. *Dorſ. Cl.* 35. *Ed.* 1. *m.* 14. *Dorſ.*

Inquisition to be made by four Knights, of Excesses and Transgressions in every County.

Clauſ. 42 Hen. 3 m. 1. Dors. The Writ for their Expences in the management of that Affair.

Hen. 3. began his Reign *October* 19.

Rex Vicecomiti Salop & Stafford salutem, Cum Prelatos, Magnates, & Nobiles Regni nostri, tam pro Negotio liberationis Edwardi primogeniti nostri, & securitate inde facienda, quam pro aliis Comunitatem Regni nostri tangentibus, nuper vocari fecimus Quod essent ad nos London in Quindena Sancti Hillarii proxime preterita, nobiscum supra his tractaturi, & Tibi sicut aliis Vicecomitibus nostris per Angliam preceperimus

Cl. 49 Hen. 3. m. 9. Dors. The second Writ to the Sheriff of *Shropshire*, &c.

ceperimus quod de utroque Comitatu predictorum, ad nos venire faceres ad predictos diem & locum, Duos de Discretioribus, & legalioribus Militibus eorundem Comitatuum, nobiscum & cum predictis Magnatibus, ex parte Comunitate Comitatuum illorum super premissis tractaturos, & Consilium suum impensuoros, Ac de partibus predictis juxta Mandatum nostrum, ibidem non venerint, aliqui Milites, super Quo miramur quamplurimum, & Movemur, Tibi precipimus iterato firmiter injungentes, quod Dictos Milites ad nos venire facias. Ita Quod modis omnibus A
22 of *Febr.* *sint ad nos, a Festo Cathedræ Sancti Petri, in Quindecim dies,* ubi tunc fuerimus in Anglia, nobiscum, *& cum* Magnatibus qui *sunt de* Consilio *nostro, super premissis negotiis locuturi, & ita te habeas in hoc Mandato nostro Exequendo, quod pro defectu tui, ad te minime Capere debeamus Teste Rege apud Westm. 23 die Febr.*

Without the *History* of this Nick of Time, this Writ is not fully understood. B

There were in the *Marches* of *Wales* several *Loyal Barons, Roger Mortimer, James Audely, Roger* de *Leybourn, Roger* de *Clifford, Haimo* le *Strange, Hugh Turbivile,* and many others, being much troubled at the usage of the *King* and *Prince*; *unanimi contra Comitem Leycestriæ insurgunt consensu*; with one consent took Arms
Paris, fol. 996 n. 50. against the *Earl* of *Leycester.* These brake down the Bridges upon the *River Severn,* and secured themselves in the *Borders* of *Wales,* C on the West-side of it.

Westm. fol 389. n. 40, 50. To Reduce these, *assumpsit Secum Regem Henricum, quem habuit adeo acclivem,* &c. *Montfort* carried with him the *Obsequious King* (made so by Threats) and Marched with a great Army to *Worcester:* and having procured his Fast Friend *Leolin Prince* of *Wales*
Montfort carries the King to *Worcester.* The Barons Marchers forc't to make Peace. to come upon the back of them, they were forced to make a Peace, on condition they should leave the Nation for a year, and deliver up D
They deliver up their Castles. their *Castles* to *Leycester,* to which terms they the more readily consented, that *Prince Edward* might be freed of his Imprisonment.

The First *Writ* of *Summons* dated at *Worcester.* The *Earl* of *Leycester* being at this time at *Worcester,* and having the King with him, the Writ to the *Bishop* of *Durham,* eleven other *Bishops,* and the *Elect* of *Bath* and *Wells,* ten *Abbats,* nine *Priors,* and five *Deans* of *Cathedral Churches,* was dated there as above.

Ibidem, 390. lin. 7. E
The King keeps his *Christmass* at *Woodstock.* But from *Worcester* (all things being quiet in the *Marches* of *Wales*) the King went towards *Woodstock,* to keep his *Christmass* there.
Ibid. n. 10.

Sed & Comes arridente ei fortuna in omnibus, quæ mente conceperat, idem festum celebravit in Castro suo de Kenelworth, &c. And the *Earl,*
Montfort subdued all *England.* fortune favouring him in all things he had contrived, celebrated the same Feast at his *Castle* of *Kenelworth. Jam quidem omnis Anglia præter* F
Aquilonem ulteriorem *quæ adhuc conspiraverat contra eum, instigantibus Rege Scotiæ & Johanne de Baliolo, inclinata extitit ei, & subjecta, omnia per ipsum ordinata sunt, omnia Regis castra ejus ditioni sunt Commissa; Nec etiam* ipse Rex *qui jam Regnando* quinquagesimus *extiterat*
Disposeth all things at his pleasure. *nisi pro umbra nominis habebatur adeo ut Terram suam perlustrare, vel*
The King but a Shadow, he went not abroad without his Keepers. *peragrare non poterat, quin in conductu & dispositione totaliter fieret alterius.*

alterius. For now all *England* but the *utmost North-part* of it, which as yet held out againſt him, by the inſtigation of the *King* of *Scots*, and *John Baliol*, was ſubject to him; all things are ordered by him, all the *Kings Caſtles* are put into his hands; Nor was the *King*, that had now Reigned *Fifty* years, any more then a *Shadow*, ſo that he could not walk in his own Land without a *Keeper* and *Guard*, and under the *total diſpoſition* of ſome other Perſon. And his A Keepers were uſually *Montfort*'s *Sons*, *Hugh D'eſpencer*, and *John Fitz-John*, the *Earl* of *Glouceſter* being excluded from the cuſtody of him.

Ibidem, 394. n. 30.

And then in the ſame form Writs were directed to fifty four *Abbats* more, twenty eight *Priors*, and the *Maſter* of the *Temple*, Dated at **Woodſtocke**, *December* 24. At the ſame time alſo, and in the ſame form, Writs were ſent to **Six Earls** only, and ſeven- B teen **Barons**, **all** *high Men* of this *Faction*; and to the *Biſhop* of *Norwich* ſingly a Writ was directed, Dated there *December* 26.

Writs of Summons dated at *Woodſtocke*.

What this Convention did, it doth not, that I can find any where, appear; they ſate not long, for the Writs for the *Expences* of the *Knights* and *Burgeſſes* (which are the firſt upon Record) bear date at *Weſtminſter*, *Feb.* 10. It is not probable that the **Prince** had then his *Liberty*, for they talked of that almoſt a year, and he C **obtained** it not until he had granted the *County Palatine* of *Cheſter* to the *Earl* of *Leyceſter*, the laſt *Patent* whereof was paſſed, *May* 20. 49 *Hen.* 3. and then he was only taken out of *Dover-Caſtle*, and made *Priſoner* at large under a Guard, as his *Father* was, until he made his Eſcape from his *Keepers* at *Hereford Caſtle*, on *Saturday* in *Whitſun*-Week.

Clauſ. 49 *H.* 3. m. 10. Notwithſtanding the pretence of the Writ. *Weſtm.* fol. 394. n. 40. The Prince was by this Convention freed from his Impriſonment in *Dover*-Caſtle.

The *Delays*, *Confuſion*, different *Form*, and Dates of theſe Writs D are new, and ſomewhat ſtrange; it was not ſo in *Auguſt* and *September*, immediately preceding the date of theſe Writs. Then the Prelats and Great Men of the Faction only granted a *Tenth* of all *Eccleſiaſtical Livings*.

Rex Epiſcopo Norwicenſ. Salutem. Cum per **Prelatos & Magnates** *Regni noſtri proviſum ſit, & unanimiter conceſſum, quod Decimæ proventuum omnium beneficiorum in regno conferantur ad communem utilitatem Regni & Eccleſiæ Anglicanæ*, &c. **Teſte** *apud Cantuar.* 1 **Die** *Septembr. & in Clauſ.* of this year, *M.* 5. *Dorſ.* 4 **Junii**, E there is a *Writ* of *Summons* in the old form to the *Barons*. It ſhould ſeem the Proceſs was gradual, by the different *Dates* of the Writs; or that they were iſſued upon **Emergences**, or as the **Confidents** and Well-**affected** were thought of. For moſt certainly, all theſe Perſons were named by *Motfort*, and his *Privado's*.

Cl. 48 H. 3. m. 3. Dors.

The Well-Affected thought of by degrees.

And without doubt, as others have conjectured before me, the F danger that *Simon*, and his *Privado*'s apprehended, from the *concourſe* of the *Nobility*, and their great *Retinues*, and the Example of his, and the *Barons* practices at *Oxford*, was the reaſon why they **altered** the *Ancient Uſage*; and of their *ſending*, *directing*, and in the *Kings* name *commanding*, the *Sheriffs* of each *County*, the *Cities*, and *Burghs*, to ſend two *Knights*, *Citizens*, and *Burgeſſes* reſpectively.

Dugd. Baron fol. 759. col. 2. The probable Cauſe that moved *Montfort* to Summon this Convention.

After

It was fought Aug. 5. 49 H. 3. Fol 395. n. 20. Paris, fol. 999. lin. 2. Sept. 8.

After the Battel of Ebesham, into which *Montfort* forced the *King*, where he was wounded. *Domino Rege violenter adducto*, says *Mat. Westminster*. *Triumphatis hostibus, Rex* Potestati Regie *restitutus, de consilio filii Victoris Wintoniam Parliametum convocavit, in Nativitate Virginis gloriosæ, ubi inito concilio, civitatem Londinensem, ob suam Rebellionem privavit suis privilegiis, & Libertatibus antiquis, &c.* The King having vanquished his Enemies, and being restored to his *Kingly Power*, by the Advice of his Son called a *Parliament* at *Winchester*, on the eighth of *September*, where the City of *London* had its *Priviledges*, and Ancient *Liberties* taken away for its *Rebellion*, &c. And also the *seisin* or *possession* of all the Lands and Tenements of the Kings Adversaries, and *Rebels*, and their *Adherents*, were given or restored unto him.

The Liberties and Priviledges of the City of *London* taken from it. The Rebels Estates given to the King.

A

Rot. Pat. 49 H. 3. n. 9. Dors.

Rex omnibus fidelibus suis, de Comitatibus Warwic, & Leycester *salutem, Sciatis Quod Cum nuper unanimi Concilio & voluntate* Magnatum *nostrorum apud* Winton *Convenientium reddita fuerunt in manus nostras* seisina omnium Terrarum & Tenementorum, *a quibuscunque occupatorum*, *de* Terris adversariorum & Rebellium *nostrorum, Qui nobis manifeste adversabantur in* Turbatione & Guerra *nuper in Regno nostro suborta, & eisdem in* Turbatione *prædicta manifeste* adhærentium, *Constituimus dilectos & fideles nostros*, Willielmum *de* Bagod, & Robertum *de* Grendon, *una cum* Vicecomite *nostro Comitatuum prædictorum ad omnes Terras & Tenementa* prædicta *in manus nostras, &c. Teste Rege apud* Winton 21 *Septembris.*

B

C

A Parliament at *Winchester*, 49 *Hen.* 3. wherein no Commons.

This *Parliament* (as *Mat. Paris* calls it) according to the old form and usage, consisted only of the *Barons* and *Great Men*: for as he reports it, 'twas convened at *Winchester* on the eighth of *September* in the 49th of *Hen.* 3. and on the twenty first of the same Month are these Letters Patents, or Writ, dated at the same place, by which it appears, that the *seisin* and *possession* of all the *Rebells* Lands and Tenements, were given to the King by the *Council* and *Consent* of his Great Men, so that the Commons in this Parliament were not Represented as at this day; nor did the King according to *Montfort*'s form, issue Writs to the Sheriffs of Counties to cause to come to him two Legal and Discreet Knights, *&c.*

D

Nor in the Parliament that made the *Dictum de Kenilworth* in the 50 of *Hen.* 3.

Nor did he continue *Montfort*'s method in calling *Parliaments*, as appears by that *Parliament* which was Summoned in the Fiftieth of his Reign, for the *Relief* of the *Disinherited*, and Establishing a firm Peace in the Nation: in which there were no *Knights* nor *Burgesses* according to future Constitution, as hath been before proved, when we treated of the Dictum de *Kenilworth*.

E

Tottells Stat. Printed 1576. p. 15. a. *Cok.* 2. *Instit. f.* 101.

And is further manifest from the *Statute* of *Marlebridge*, made in the Fifty second of this King for the renewing, confirming, and establishing (as it were then) the Body of the Law of this Nation. The Preamble whereof runs thus; *Anno Gratiæ* 1267. *Regni autem Domini Henrici filii Regis Johannis quinquagesimo secundo in Octabis Sancti Martini, Providente ipso Domino Rege, ad Regni sui Angliæ Meliorationem, & Exhibitionem Justitiæ (prout Regalis Officii Exposcit utilitas) pleniorem, Convocatis Discretioribus ejusdem Regni, tam* Majoribus, *quam* Minoribus, *Provisum est, & Statutum, ac concor-*

F

concordatum & Ordinatum, &c. We see by this Preamble, that by the care and providence of the King himself, for the Melioration of his Kingdom, and the more full Exhibition of *Justice*, were called together the more *Discreet* Persons of the same Kingdom, as well the *greater*, as the *lesser*, by whom, the *Provisions*, *Establishments*, *Agreements*, and *Ordinances* in this Statute comprehended, were made.

A

Upon this Preamble I observe, first, That all the *great Barons* were *not present* at the *making* of this Statute, but *only* the *more Discreet*, and *such* as the *King* thought *fit* to call, who were Summoned always by particular Writs.

Not all the great Barons, but the more Discreet of them were at the making of the Statute of *Marlebridge*, 52 *Hen.* 3.

Secondly, That neither were *all* the *lesser Barons*, or *Tenents* in Capite *present* in this *Parliament*, but only *the more Discreet* Persons amongst them, and these called by the King, and in all probability by particular Directions: for by a general Summons according to King *Johns* Charter, directed to the Sheriff of each County, to Summon all the *Minor Barons*, and *Tenents* in Capite, it could not be *that only the more Discreet Persons* of them should be called together, nor is there in this *Preamble*, the least *hint*, or *intimation* of any *Writs* directed to *Counties*, *Cities*, or *Burghs*, for the choice of Members.

B

C

Nor were all the lesser Barons in this Parliament, buto only the more Discreet of them.

Thirdly, From the Sixth Chapter of this Statute, which was one of the chief Laws contained in it, I shall observe, That it was made *per la purveance Robert Walerand, & per Commune assent des grauntz Seigniours due Realme*; by the procurement or forecast of *Robert Walerand*, and by *common assent* of the *great Lords* of the Realm. I will only note, that *Robert Walerand* was a *Baron*, a *Soldier*, and *Lawyer*, and died in the first of *Edw.* 1. that *Britton* lived at this time, and well *understood* the *Constitution* of *Parliaments*, and wrote the Book of the Laws of *England*, bearing that name, in the time of King *Edward* aforesaid, and by his direction; and leave the rest to the Judgment of the Reader.

D

The sixth Chapter of this Statute, made and procured by *Robert Walerand*. *Britton, p. 95. b. Cok. 2. Institut f. 109.* He was a Baron, a Soldier, and Lawyer.

Lastly, From the whole it may be observed, That though the Learned *Camden*, *nor his ancient Author*, be of any great Credit with Mr. *Selden*, and some others, yet here is an *old Statute*, that seems to *point* at and *discover* almost the very same thing, *viz.* That after the horrid Confusions, and Troubles of the *Barons* Wars, those *Earls* and *Barons Quibus ipse Rex dignatus est, Brevia Summonitionis dirigere, venirent ad Parliamentum suum, & non alii.*

E

The Testimony of *Camdens* old Author made good by an old Statute.

Britan, f. 122.

From *King Henry* the *Third*, we proceed to *Edward* the *First* his Son, who in the beginning, and for several years of his Reign and Government, for ought what appears from *several Statutes* then made, and other *Records*, did not *issue* Writs, for the *Election* of *Knights*, *Citizens*, and *Burgesses*, as at this day, but used *the same way*, and *course* of Summoning, and holding *Parliaments*, his *Father* had done before him.

F

Probably no Writs for the Election of Knights, Citizens, and Burgesses were issued in the beginning of King *Edward* the First his Reign. *Tottells* Stat. *p. 24. a. Cok. 2. Instit. f. 156.*

I shall begin with the *Statute* of *Westminster* the first, the Preface whereof begins thus. *Ceux sont les Establishments, le Roy Edward*

The Statute of *Weſtminſter* firſt, and the firſt Parliament of *Edward* the Firſt.

ward ſits le Roy H. faits a Weſtminſter a ſon primer Parliament **general** *apres ſon Coronement, lendemain de la cloſe de paſche lan, de ſon Raign 3 per ſon* **Counſel**, *& per aſſentments, des* **Archevelques, Evelques, Abbes, Priours, Counтes, Barons,** *& tout la* **Communalty** *de la terre illongs ſomons.* Theſe are the *Eſtabliſhments* of King *Edward*, the Son of King *Henry*, made at *Weſtminſter* at the firſt *general* Parliament after his Coronation, on the Morrow of the cloſe of *Eaſter*, in the Third year of his Reign, by his *Council*, and by the aſſent of the *Arch-Biſhops*, *Biſhops*, *Abbats*, *Priors*, *Earls*, *Barons*, and the whole *Commonalty* of the Land thither ſummoned. A

Why it was called a general Parliament. See *Communitas Terræ in Gloſſario.* 2 *Inſt. f.* 156.

This was a *general* Parliament, and ſo called in *reſpect* of the *generality* of the Summons, and Appearance, for beſides the *Arch-Biſhops*, *Biſhops*, *Abbats*, *Priors*, *Earls*, and *Barons*, all the *Community* of the Land, that is, all the *leſſer Barons*, and *Tenents* in Capite, were ſummoned to it. Sir *Edward Coke* ſays it was called a *general* Parliament becauſe *all* the *Laws* then made were *general*, if ſo, why was not the *Parliament* at *Marlebridge* alſo called a *general* Parliament, which conſiſted *only* of the *more Diſcreet*, as well of the *greater* as *leſſer Perſons*, when as all the *Laws* there made were as *general* as theſe. B

The Parliament Prorogued before meeting.

This *Parliament* was *firſt* ſummoned to meet fifteen days after the *Purification* of the *Virgin Mary*, but was *prorogued* before meeting, unto the *Morrow* after the *cloſe* of *Eaſter*, which was the *Munday* after *Eaſter Munday*. The *Original* Summons to it, are not to be found upon the *cloſe Roll* of this, or the preceding year of this King, but the *Writ* of *Prorogation* directed to the *Arch-Biſhop* of *Canterbury* is as followeth. C

Clauſ. 3. Ed. 1. m. 21. Dorſ. De veniendo ad Parliamentum.

Rex venerabili in Chriſto patri R. Cantuarienſi Archiepiſcopo totius Angliæ primati ſalutem, Quia **General***e Parliamentum noſtrum Quod cum* **Prelatis & Magnatibus** *regni noſtri propoſuimus habere, London: ad* Quindenam *purificationis beatæ Mariæ proxime futuram; Quibuſdam certis de cauſis* **prorogab mus**, *uſque in* **Craſtinum Clauſi Paſchalis**, *proxime ſequens. Vobis Mandamus rogantes quatinus eidem Parliamento ibidem in eodem* Craſtino Clauſi Paſchatis *interſitis ad Tractandum & Ordinandum una cum* **Prelatis & Magnatibus** *Regni noſtri de negotiis ejuſdem Regni, & hoc nullatenus omittatis. T. Rege apud* Wodeſtok 27 *die Decembr.* D

King *Ed.* 1. began his Reign, *November* 16. 1272.

The King to the Venerable Father in Chriſt *R.* Arch-Biſhop of *Canterbury*, Greeting; Becauſe our *general* Parliament which we purpoſed to have, with the *Prelats*, and *Great Men* of our Kingdom at *London*, on the *Quindene* of the Purification, *&c.* next coming, we have for ſome certain cauſes *prorogued*, until the *Morrow* of the *cloſe* of *Eaſter* next following, we Command, requiring you that you be preſent at the ſame *Parliament*, *&c.* to *Treat* and *Ordain* together with the *Prelats* and *Great Men* of our Kingdom concerning the Buſineſs of the ſame Kingdom, and this you may in no wiſe omit. Witneſs the King, *&c.* E F

By

By this Writ we see the Kings purpose to hold a *general* Parliament, with the *Prelats*, and *Great Men* of his Kingdom, which *great Men*, very frequently comprehended as well the *Barones Majores*, as *Minores*, the *Earls*, *Barons*, and *greater Tenents in Capite*, and the less, which then were the *Community* of the Kingdom.

The great, and lesser Barons, are sometimes comprehended under the words *Magnates*.

A The next is the *Statute de Begamis*, made in the Fourth of *Edward* the *First*, the *Preamble* whereof runs thus. *In presentia venerabilium patrum*, **Quorundum Episcoporam** *Angliæ*, *& aliorum de* **Consilio** *Regis*, *Recitatæ fuerunt Constitutiones subscriptæ*, *& postmodum Coram Domino Rege*, *&* **Consilio** *suo auditæ & publicatæ*, *Quia omnes de* **Consilio** *tam Justiciarii quam alii concordaverunt*, *Quod in Scripturam redigerentur ad perpetuam memoriam*, *& Quod firmiter observentur.*

Tottells Stat. *p.* 39. *b. Cok.* 2. *Instit f.* 267. Statute *De Bigamis* made in 4 *Edw.* 1.

B

In the presence of the Venerable Fathers, *some* of the *Bishops* of *England*, and others of the Kings *Council*, the underwritten * *Constitutions* were recited, and afterwards, they were heard or read, and published before the *King* and his *Council*, because *all* of his Council, as well *Justiciaries*, as others agreed, that they should be written for peretual memory, and firmy observed.

* That is the Statute it self. *Quia*, in this place, instead of *Because*, might have been translated (*and then*) for so it signifies, many times, in old Monks, and legal *Latin*.

C From these words, and *none other*, Sir *Edward Coke* observes the *ancient Order*, as he says, of proceeding in Parliament for *passing* of Bills; First, That a *select Committee* of *certain Bishops*, *Barons*, and *some* of the *Commons*, with the *Judges* assistance, expressed under the words, *Et aliorum de Consilio Regis*, (for at this time, he says, the *Lords* and *Commons sate* together) and after the Committee of *both Houses* had resolved hereupon, then to *report* it to the whole Council, here *expressed* under these words (*Auditæ & publicatæ*) D which *order* in the several Houses is *continued* to *this* day. If I say, I cannot see any such sense, or meaning in the words, and leave it to my Judicious Readers to find it out, I hope they will excuse me.

Ibid. Sir *Edw. Cokes* straining of words to a sense they cannot bear. *Q.* If they sate together, how they were two Houses?

From the *Preamble*, Sir *Edward* goes on to the *first Chapter* of the *Statute*, which begins thus, *De placitis ubi tenens excipit*, *Quod sine Rege Respondere non possit: Concordatum est per Justiciarios*, *& alios* E **Sapientes** *de Consilio Regni Domini Regis*, *&c.* Concerning Pleas, where the Defendent excepts, that he cannot Answer without the King, it was agreed by the *Justices*, and other *Wise*, or *Sage* Men of the Council of the Kingdom of the Lord the King, *&c.*

Ibid. *f.* 268. *Tottells* Stat. *ut supra.*

Per Justiciarios, *& alios* **Sapientes** *de Consilio Regni Domini Regis.* Here, says Sir *Edward*, was used the *ancient forms* of Parliaments when the *Acts* were, *Rex ex Consilio* **Sapientum**, *&c.*

Ibid. Sir *Edw. Coke* understands not the meaning of the word *Sapientes* in the *Saxon* Laws.

F

At a *Parliament* holden by *King Inas*, *Anno Domini* 727. the *Statutes* began thus; *Ego Inas Dei beneficio Rex*, *Juasu & instituto Cenredi patris mei*, *Heddæ & Erkenwaldi Episcoporum meorum*, *omnium Senatorum Meorum*, *& natu majorum* **Sapientum** *populi mei*, *in magna servorum Dei frequentia*, *&c.* Here is the *Parliament expressed* as it *continueth* to *this* day: and adds to the same *purpose*

Ibid.

ſome *part* of the *preambles*, to the *Laws* of King *Alured*, *Æthelſtan*, and *Ethelred*, which are much according to the *ſame ſenſe*, and *form*. Here is indeed *ſhort* work, and a *poſitive* aſſertion, but with what underſtanding, and reaſon it was made, I refer the Reader to what hath been *ſaid* in this *Diſcourſe*, of the *Saxon* Councils or *Parliaments*, and what is ſaid in the *Gloſſary* in the word *Sapientes*.

Whether this was a Parliament, or what were the Conſtituent parts of a Parliament at this time, or of this Parliament in particular, I think it is neither ſo *eaſie*, nor *plain* to determine, as Sir *Edward* would have it to be; Perhaps the beſt *underſtanding* of the *Preamble* and *Firſt Chapter* may be, that their *Laws* and *Conſtitutions* were *prepared* by the *King* and his *Council*, with the aſſiſtance of the *Juſtices* and *Lawyers* that were of it, or called to aſſiſt in it, and *declared* afterward in *Parliament*; For it's ſaid in the Cloſe of the Statute, *Prædictæ autem conſtitutiones editæ fuerunt apud Weſtmonaſterium, in Parliamento poſt feſtum Sancti Michaelis, Anno Regni Regis Edwardi filii Regis Hen. quarto; Et extunc locum habeant.*

Tottells Stat. *p.* 40. *b.* 2 *Inſtit f.* 275.

After this we ſhall obſerve the *Preamble* of the *Statute* of *Glouceſter*. *Lan du Grace* 1267. *& del raigne le Roy Ed. fits le Roy Henry* 6. *a Glouceſtre le moys Dauguſt, purveant meſme le Roy, pur amendment de ſon Roialm, & pur pluis pleiner exhibition de droit, ſicome le profit doffice demande, Apelles le pluis diſcretes de ſon Roialme, auxibien des Greinders come des Meinders, Eſtablie eſt, & Concordantment ordine*, &c. The year of our Lord is here miſtaken, for it ſhould be 1278. which was the ſixth of *Edw.* 1. This *Preamble* is almoſt the very ſame with the *Preamble* to the *Statute* of *Marlebridge*, and therefore ſhall ſay nothing further of it, and will only add, that by the *Preface* to the Statute of *Weſtminſter* 2. made in the 13 of *Edw.* 1. it appears, that the *Prelats*, *Earls*, *Barons*, and the *Kings Council* were the *Conſtituent parts* of this or ſome other *Parliament* held at *Glouceſter* that year. *Cum nuper Dominus Rex, in Quindena Sancti Johannis Baptiſtæ, Anno Regni ſui ſexto, Convocatis* Prelatis, Comitibus, Baronibus, *&* Concilio *ſuo, apud* Gloceſtre. *Quia plures de Regno ſuo, &c.*

Ibid. *p.* 41. *a.* *Cok.* 2 *Inſtit. f.* 277. *Vid. Stat. de Quo Warranto*, 30 *Edw.* 1. In the ſecond Inſtitute, inſtead of *purveant meſme le Roy*, as it is in *Tottell*, it is *purview ante meſme le Roy.* *Tottells* Stat. *f.* 50. *b.* 2 *Inſtit. f.* 331. The Conſtituent parts of that Parliament which made the Statute of *Weſtm.* the ſecond, 13 *Edw.* 1.

The Statute of *Mortmain*, was made by King *Edward* the *Firſt*, in the Seventh year of his Reign, by Advice of the *Prelats*, *Earls*, *Barons*, and other *Lieges* of his Kingdom, being of his Council. *Nos pro utilitate Regni Congruum volentes providere Remedium, de Conſilio* Prelatorum, Comitum, Baronum, *&* aliorum *fidelium Regni noſtri de* Concilio *noſtro* Exiſtentium, *providimus, Statuimus, & Ordinavimus, Quod nullus Religioſus*, &c.

Statute of *Mortmain* made by the King and his Council, *Tottells* Stat. *p.* 48. *a.*

The *Statute* of *Acton Burnel*, or *Statute Merchant* in the Eleventh of *Edward* the *Firſt*, was made by the *King* himſelf and his whole *Council*, *Le Roy per luy & per tout ſon* Counſel, *ad ordain & eſtablie, Que Merchant, &c.* And this was done in *Parliament*, as appears by the *Statute* of *Merchants* made in the Thirteenth year of the ſame King. *Noſtre Seigniour le Roy per luy, & per ſon* Counſel, *a ſon Parlement quil tient a Acton Burnel, apres la Seint Michael, lan de ſon Raign* 11. *fiſt & Ordeign, les Eſtabliſſments, &c.* Our Lord the King by *himſelf*, and by his *Council*, at his *Parliament* which he held

Ibid. *p* 49. *a.* Statute of *Acton Burnel*, made by the King and his Council, 11 *Edw.* 1. Ibid. *p.* 82. *b.*

held at *Acton Burnel*, in the Eleventh year of his Reign, made and ordained these Establishments, *&c.*

In the Eighteenth year of this King on the first of *June*, the *Prelats*, *Earls*, *Barons*, and great Men of the Kingdom, with *one assent* in *full* Parliament, granted to him forty shillings of every Knights Fee, for an Ayd to Marry his Daughter, for *themselves*, and the A whole *Community* of the Kingdom, as by Record appeareth.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, & omnibus aliis *de Comitatu Kantiæ salutem*, *Sciatis Quod cum primo die Junii Anno regni nostri decimo Octavo*, Prælati, Comites, Barones, & Cæteri Magnates *de Regno nostro Concorditer* pro se, & Tota Comunitate *ejusdem Regni*, *in pleno Parliamento nostro nobis Concesserint* Quadraginta Solidos *de* Singulis Feodis *Militum in dicto Regno*, *in auxilium ad primogenitam filiam nostram maritandam*, *levandos sicut hujusmodi Auxilium*, *alias in casu Consimili concessum*, *levari consuevit*, *cujus quidem Auxilii Levationi faciendæ*, *per dictæ Comunitatis aisiamento*, *huc usque supersedimus gratiose*, *Assignavimus dilectos & fideles nostros*, *Vicecomitem nostrum comitatus predicti &* Ricardum *de* Rokesle, *ad predictum Auxilium Quadriginta solidorum de singulis Feodis Militum predictis infra comitatum predictum ad opus nostrum levandum & Colligendum. Ita Quod unam medietatem ejusdem auxilii habeant ad scaccarium nostrum in Octabis purificationis beatæ Mariæ proximo futuris*, *& aliam medietatem in crastino Ascensionis Domini proxime sequenti*, *Thesaurario & Camerario nostris ibidem liberandas. Et ideo vobis Mandamus*, *Quod eisdem Vicecomiti & Ricardo in premissis intendentes sitis & Respondentes. In cujus*, &c. *Teste Rege apud Westminster 7 die Novembris.*

Rot. Pat. 30 Ed. 1. m. 1.

Forty shillings of every Knights Fee, given by the Prelats, Earls, Barons, and great Men for themselves and whole Community of the Kingdom.

Hitherto in this Kings Reign there appears nothing, that can D evince, either the summoning, or being, of *any Commons*, as now understood, or *any Knights*, *Citizens*, or *Burgesses*, in *any* of these *Parliaments*. We are at least left in uncertainties, nay the proof is most strong on the Negative, that there were none.

Yet in this year there is a *Bundel* of *Writs* directed to the Sheriffs of several, or most of the Counties of *England*, and they are E the ancientest extant, or perhaps that ever were, (for in probability the *calling* of *Knights*, *Citizens*, and *Burgesses*, according to that example, was discontinued from the 49 of *Hen.* 3. unto this time) by which two or three Knights were directed to be chosen for each County. The Writ it self follows.

Writs for Electing Knights, 18 *Edw.* 1.

Edwardus Dei gratia Rex Angliæ, *Dominus Hiberniæ*, *& Dux Aquitaniæ vicecomiti Westmerlandiæ salutem*, *Cum per* Comites, Barones, *&* quosdam alios *de* proceribus *Regni nostri*, *nuper fuissemus super quibusdam* Specialiter requisiti, *super Quibus*, *tam cum* ipsis, *quam cum* aliis *de* Comitatibus *Regni illius* Colloquium *habere volumus &* Tractatum, *Tibi precipimus*, *Quod* Duos *vel* tres *de discretioribus*, *& ad laborandum potentioribus Militibus*, *de comitatu predicto sine Dilatione* Eligi, *& eos ad nos usque Westmonasterium venire facias*, *ita Quod sint ibidem*, *a die Sancti Johannis Bapt. prox. futur. in tres septimanas ad ultimum*, *cum plena potestate pro se & Comunitate comitat.*

Bundel of Summons to Parliament, 18 *Edw.* 1.

Two or three Knights to be chosen for a County.

tat. prædicti, ad Consulendum & Consentiendum, *pro se & comunitate illa,* His *Que* Comites, Barones, & Proceres *predicti, tunc duxerint concordanda, & habeas ibi hoc Breve. T. meipso apud Westmonast.* 14 *die Jun. Anno regni nostro* 18.

Edward by the Grace of God King of *England*, Lord of *Ireland*, and Duke of *Aquitan*, to the Sheriff of *Westmerland*, Greeting. Whereas we have been *especially Petitioned* and *Requested*, by the *Earls*, *Barons*, and *others* of the *great Men* of our Kingdom, concerning certain matters, upon which we will have *Conference* and *Treaty*, as well with *themselves*, as with *others* of the Counties of that *Kingdom*, We Command thee, that without delay, thou makest to be chosen, *two* or *three* of the more discreet, and ablest Knights for dispatch of Business, of the County aforesaid, and cause them to come to us at *Westminster*, so that they be there, in *three weeks* after the Feast of St. *John* Baptist at furthest, with full power for themselves, and the whole Community of the County aforesaid, to *consult* and *consent*, for themselves, and that Community, to such things, which the *Earls*, *Barons*, and *great Men* aforesaid, shall then think fit to *agree* upon, and you are to have there this Writ. Witness my self at *Westminster*, the Fourteenth day of *June*, in the Eighteenth year of our Reign. A B

On the first of this Month the King had Scutage given him in full Parliament: Fourteen days after, at the *instance* of the *Earls*, *Barons*, and other great Men of the Kingdom, upon certain matters by them *moved*, and *propounded* to him, He issued this Writ of Summons to the Sheriffs of the several Counties, to cause to be chosen, two or three Knights of each County, to come to him at *Westminster*, three weeks after St. *John* Baptist (which is the Eighth of *July*) at fartherst. C

The King was in probability moved by the Earls, Barons, and great Men to call Knighs of Shires.

Upon this Writ, it may be observed, first, that it is most probable, (though it is not here absolutely said so) that the King was *moved* by the *Earls*, *Barons*, and *great Men* of the Kingdom to *call* these Knights to this *Parliament*; and that as this *Writ* is the *first* to be found after that of the 49 of *Hen.* 3. so it *really* was the *first Writ* of Summons after that time, for the *Election* of Knights to represent the several Counties. D

Secondly, That there could be *no Citizens*, *nor Burgesses chosen*, or sent to this *Parliament* by virtue of this Writ, as there were afterward by directions contained in the Writs *sent* to the *Sheriffs* for *Electing Knights* of the Shire. E

Tottells Stat. *p* 85. *b.* 2 *Instit. f.* 500. The Statute of *Westminster* the third, seem to have been only by the King and Barons.

Thirdly, That by this Writ, the Knights were to come to the King at *Westminster*, *three weeks* after St. *John* Baptist at fartherst, which was the *fifteenth* of *July*; that in the same year, between the *time* of the *date* of the Writ, and the *time* appointed for meeting of the Knights, the *Statute* of *Westminster* the third was made. *Dominus Rex in Parliamento suo apud Westmonasterium post pascha Anno Regni sui decimo Octavo, videlicet in Quindena Sancti Johannis Baptistæ*, (that is the Eighth of *July*) *ad instantiam Magnatum Regni sui* Concessit, Provisit, & Statuit, *Quod de cætero liceat unicuique* F

unicuique libero hommi, &c. So that this was either the *same* full Parliament, which *gave* the King *Scutage* on the *first* of *June*, and then the *King* and *Barons without* the *Commons*, made this *Statute*, or the *Knights* had *another* Summons after the date of this Writ, (for before that they were not in the Parliament) or the Knights *came* a week before they had *need* to have done, but neither of the latter, are probable, seeing the *Knights* then *were* great Husbands of their A Time and Expences, and were not very *forward* to *undertake* this Service, as being constantly bound with, or engaged by *Sureties*, or *Manucaptors*, for the *performance* of it, and their *appearance* in Parliament, and therefore it seems reasonable to conclude, that this *Law* was made *without* them, and before their coming to Parliament.

So much of this Writ; From *which*, and the *variation* of the following *Writs*, and other *Records*, it is most evident, that it was B from the *Kings Authority* and *time* that the House of *Commons* came to be *fixed*, and *established* in the present constant form, it now is, and hath been in, for many Kings Reigns, and that the King in this Age was not altogether *confined* to any *certain number* of *Knights*, *Citizens*, or *Burgesses*, nor were several strict *forms* and *usages* now practised, ever then thought of, or some *legal niceties* and *punctilio's* now in use, then judged absolutely necessary.

C *Rex* Vic. Northumbr. *Salutem. Quia cum Comitibus, Baronibus & cæteris Magnatibus de regno nostro super quibusdam negotiis arduis nos & idem regnum nostrum contingentibus, in Crast. Sancti Martini prox. futur. apud Westm. colloquium habere volumus & tractatum. Tibi præcipimus quod eligi facias* Duos Milites *de discretioribus, & ad laborandum potentioribus de Com. prædicto, & eos ad nos usque* Westm. *venire facias. Ita quod sint ibi in Crastino prædicto, cum plenâ potestate pro se & totâ Communitate, Com. prædicti, ad consulend. & consentiend. pro* D *se & Communitate illâ,* his que Comites, Barones, & Proceres prædicti concorditèr Ordinaverint *in præmissis, Et ita quod pro* defectu potestatis, *hujusmodi* idem negotium *infectum non remaneat, & habeas ibi hoc Breve. Teste* Rege *apud* Westm. 8 *die* Octobr.

Cl. 22 *Edw.* 1. m. 6. Dorso. *De Militibus Eligendis & Mittendis ad Consilium.*

Consimiles Literæ singulis Vice-comitibus Angliæ, *T. ut supra.*

E Rex *Vic.* Northumberl. *Salutem. Cum nuper tibi præciperimus quod* Duos Milites *de discretioribus & ad laborandum potentioribus ejusd. Comitat. de consensu ejusdem eligi. Et eos ad nos usque* Westm. *in Crast. Sancti Martini prox. futuro, cum plenâ potestate pro se & totâ Communitate ejusd. Com. venire faceres, ad consulend. & consentiend. pro se & Communitate illâ his quæ* Comites, Barones, & Proceres *de regno Nostro in dicto Crastino ordinabunt, Tibi præcipimus firmiter injungentes quod præter illos Duos Milites Eligi facias alios* Duos Milites Legales *& ad laborandum potentes & eos unà cum* dictis Duobus Militibus *usque* F Westm. *venire facias, ita quod in dicto Crastino sint ibidem ad audiend. & faciend. quod eis tunc ibidem* plenius injungemus. *Et hoc nullo modo Omittas. Et habeas ibi hoc breve. Teste Rege apud* Westm. 9 *die* Octobris.

Pro Rege de aliis Militibus cum prioribus intendendis ut supra.

The King in this Age not confined to a certain number of Knights.

Eodem modo Mandatum est Singulis Vicecom. Angliæ *Mutatis mutandis.* T. *ut supra.*

Rex.

Cl. 28 Edw. 1. m. 3. Dorſ.

Edw. 1. began his Reign, Oct. 16. 1272.

Rex. Vicecom. Cumberl. *ſalutem. Cum nuper pro communi utilitate Populi Regni noſtri conceſſerimus, quod Charta de Foreſta in ſingulis ſuis Articulis firmiter obſervaretur, aſſignando quoſdam de fidelibus noſtris in ſingulis Com. ejuſdem Regni in quibus Foreſtæ noſtræ exiſtunt ad perambulationem in iiſdem Foreſtis faciend. Ita quod perambulationem illam diſtinctè & aperte factam ad Nos, antequam aliqua executio, vel aliquid aliud inde fieret, reportarent, & quod Juramentum noſtrum, jus Coronæ Angliæ, rationes, & calumpniæ noſtræ nec jus rationes & calumpniæ aliorum omnium ſalvæ forent. Nos licet dicti* fideles *noſtri nunc primo ad Nos detulerint quod fecerint in negotio memorato, quia tamen* Prælati, Comites, Barones *& Cæteri* Magnates *dicti regni in quorum præſentiâ, noſtras & aliorum proponi, & audiri volumus rationes, & de quorum Conſilio in eodem negotio, prout alias diximus, intendimus operari; Maximè cum ipſi ad obſervand. & manutenend. jura regni & coronæ prædictæ una nobiſcum juramenti vinculo ſint aſtricti, juxta latus noſtrum tunc temporis non fuerunt: ac pro eo ſimiliter, quod illi qui ſuas rationes, quatenus illud negotium eos tangit proponere habebant, inde præmuniti non erant, eidem negotio, ſine ipſorum Conſilio finem imponere non potuimus bono modo: Et quia negotium illud quantum poſſumus cupimus maturari, ita quod per nos non ſtet quin abſque ulterioris dilationis incommodo effectum debitum ſortiatur; volentes cum* Prælatis, Comitibus, Baronibus *&* Magnatibus *ſupradictis, ac aliis de* Communitate dicti Regni, *Super hoc & quibuſdam aliis arduis negotiis, nos & ſtatum Regni prædicti tangentibus habere colloquium tractatum. Tibi præcipimus firmiter injungendo, quod venire facias coram nobis ad* Parliamentum *noſtrum* apud Lincoln, *in* Octab. Sancti Hillarii *prox. futur.* duos Miltes *de Ballivâ tuâ;* Illos *videlicet qui pro Communitate Com. prædict. ad Parliamentum Noſtrum ultimo præteritum per præceptum noſtrum venerunt: Et etiam de qualibet* Civitate *infra* Balivam *tuam* eosdem Cives, *& de quolibet* Burgo eosdem Burgenſes *qui ad* prædictum Parliamentum *noſtrum alias ſic venerunt. Et ſi forte* aliquis Militum, Civium aut Burgenſium *prædictorum* mortuus fuerit *aut infirmus, per quod ad dictos diem & locum venire nequeverint, tunc loco illius Mortui aut infirmi unum alium idoneum ad hoc eligi & ad dictum* Parliamentum *noſtrum venire facias. Ita quod* Milites, Cives, *&* Burgenſes *prædicti dictis die & loco modis omnibus interſint cum plenâ poteſtate audiendi & faciendi, ea quæ ibidem in præmiſſis Ordinari continget pro communi commodo dicti Regni. Et eiſdem militibus de Communitate Com. prædicti, civibus de civitatibus & Burgenſibus de Burgis prædictis rationabiles* expenſas ſuas *habere facias, in* veniendo *ad dictum* Parliamentum noſtrum, *ibidem* morando *& etiam* redeundo. *Tibi inſuper præcipimus ſicut prius, quod per totam* Balivam *tuam ſine dilatione publice facias proclamari. Quod omnes illi qui terras aut Tenementa habent infra metas Foreſtæ noſtræ in Ballivâ tuâ & qui perambulationem in aliquo calumpniari voluerint, quod ſint coram nobis in Parliamento noſtro prædicto oſtenſur, in hâc parte rationes ſuas & calumnias ſi quas habent, & habeas ibi nomina prædictorum Militum, Civium & Burgenſium & hoc Breve.* T. *Rege apud le Roſe,* 26 *die* Septembris.

A B C D E F

Some

Some of the *Returns* Annexed to these *WRITS*.

Nomina Militum de Comitat. Lincoln. *Duorum Civium de qualibet Civitate, & Duorum Burgensium de quolibet Burgo, infra Com. prædict.* viz. *Eorum qui ad Parliamentum ultimo præceptum venerunt & securitatem quam mihi fecerunt ad veniend. ad Parliamentum. Nunc tenend. Patent in sequenti. Manucap.* Tho. fil. Eustachii *unius Militis Com. prædict.* 4. there returned after his Name: *Man.* Tho. *de* Burnham *alterius Militis*, 4. there listed. *Man.* Stephani *de* Cranham *unius Civis Civitat. Lincoln.* 4. *Man. unius Burgensium de Grymsby*, 4. *Alterius Burgens.* 4. there named. *Lincoln.*

Milites *Electi, Petr. de Dennardeston nunc electus est* loco Johannis *de* Bisbake, *qui* infirmus est *qui Manucap.* per duos. Johannis de Peyton manuc. *est* per 2. *Suff.*

Eligi in pleno Com. Glouc. *feci* loco unius Militis gravi infirmitate detent. *alium Militem nomine* Richardi *de* Croupes per *Assensum ipsius Comitatus*, &c. *Glouc.*

Robertus Pogers Miles, *qui ad* Parliamentum *ultimo præteritum venit*, infirmus *est*, *in* loco *ipsius* Roberti, Geradus *de* Braybroke *Miles electus est, & manucapitur per* 4. there returned. *Burgenses* 2. *de Agnundesham, qui ad ultimum Parliamentum venerunt, Manucap. per* 4. *Manucaptors* for either. Johannes de la Lude Burgensis Wycumbe electus est loco Stephani *Ayet, qui fuit ad ultimum Parliamentum, pro eo quod idem* Stephanus infirmus est: *Manuc. pro* 4. *Bucks.*

Qui Reginaldus *de* Ferrers *&* Robertus Beaupill *Milites, qui alias fuerunt ad Parliamentum per Electionem Com. non sunt potentes ad laborand. ad præsens, Electi sunt loco eorum* Henricus *de* Ralegh *&* Nicholas *de* Kyrkton, who found 4 *Manucaptors* apiece there returned. *Devon.*

Nomina civium Exon. Hen. *de* Bokwell, Johannes Farthein, loco Nicholai Page, *qui impotens est.* *Exon.*

It is commonly Storied (but Erroneously) that this whole *Parliament*, or at least the Temporal Lords and the Commons, wrote to the *Pope*, concerning the Jurisdiction and Superiority of the Kings of *England* over the Kingdom of *Scotland*. But it cannot be so, for this *Parliament* Met on the *Octaves* of *Hillary*, or the 20th of *January*, and sate but eight days; The Writs for the Commons Expences bear date, *January* 30, of the same year, and the Letter to the *Pope*, Signed by the Temporal Lords, for themselves, and the whole Community of the Kingdom of *England*, is dated *Febr.* 12. next following at *Lincoln*, after the Commons had been discharged 14 days. So that the Barons still continued to stile themselves the * Community of *England*, and such both Spiritual and Temporal Barons, and others of the Kings Council, did stay and dispatch much Business, after all others were dismissed, according to the Tenor of the following Proclamation, and may be fully proved from the Proceedings of that Parliament, as they are to be found in *Reley's Placita Parliamentaria*, f. 241, &c.

* Vid. *In Glossar Communitas Terræ.*

Puis apres le 21 jour de Marz fu fait une crie par commandement le Roi en ceſtes paroles.

33 *Edw.* 1. *Ryley's Placita Parl.* fol. 241.

ERceveſqs, Eveſqs & autres Prelatz, Countes & Barons Chivalers des Countez, Citizeins & Burgeys & autres gentz de la commune qe cy ſont venuz al mandement noſtre Seigneur le Roy a ceſt Parlement, le Roy les mercy mult de lour venue & vuet qe quant a ore qu'il retornent en lour pais; Iſſint qu'il renueignent preſtement & ſannz delai quele houre qu'il ſoient autre foiz remandez ſauve les Eveſqs Countes & Barons Juſtices & autres qui ſont du Conſeil noſtre Seigneur le Roy que ceux ne ſen allient ſaunz eſpecial conge du Roy. Et ceux qui ount a buſoigner qe ceux demorgent a ſiwre lour buſoignes. Et les Chivalers qui ſont venuz pur les Countez, & les autres qui ſont venuz pur les Citez & les Burghs ſiwent a Sire Johan de Kirkeby & il lour fra avoir Brefs d'avoir lour deſpenſes en lour pais. Et lavantdit Johan de Kirkeby par la reſon de la Crie avantdite les nonns de Chivalers qui vindrent pour les Countez & les nonns des autres qui vindrent pur lez Citez & Burghs livera au Chanceler, & fiſt crier qe touz y ceux quy vouſiſſent brefs ſiwre de lour deſpens ſicome deſus eſt dite ſiwiſſent illoqes pour lour brefs.

Then after, on the One and twentieth day of *March*, Proclamation was made, by Commandment of the King, in theſe words.

The Parliament diſmiſſed, to come again upon Reſummons.

After the Diſmiſſion, the King and Council anſwered the Petitions, See *Ryley's Placita Parliamentaria*, f. 241, &c.

THe King gives the *Arch-Biſhops*, *Biſhops*, and other *Prelats*, *Earls*, and *Barons*, *Knights* of Counties, *Citizens* and *Burgeſſes*, and *other Perſons* of the *Commons*, which by our Lord the Kings *Command*, came to this Parliament, *many thanks* for their coming; and *Willeth* that at preſent they return into their Countries, ſo as they *readily* and without *delay*, do *come again* at the time when they ſhall be remanded, except the *Biſhops*, *Earls*, and *Barons*, *Juſtices* and *others*, which *are* of the Kings *Council*, who may *not depart* without *ſpecial leave* of the King: and *thoſe* which have Buſineſs *muſt ſtay*, to follow it: and the *Knights* that come for *Counties*, and the others that come for *Cities* and *Burghs* may apply themſelves to Sir *John* de *Kirkeby*, and he ſhall cauſe them to have *Writs* for their *Expences* in their Countries: and the aforeſaid *John de Kirkeby*, by *virtue* of the *Proclamation* aforeſaid, ſhall deliver the names of the *Knights*, *Citizens*, and *Burgeſſes* to the *Chancellor*; and Proclamation was made, that all ſuch as would ſue for the Writs of Expences, ſhould do it as above is ſaid.

This was neither *Prorogation* nor *Adjournment* according to the preſent method, but rather a *diſmiſſion*, with order to come again upon *Re-ſummons*. This Parliament *met* on *Sunday* after the Feaſt of St. *Matthias* the Apoſtle, which Feaſt is *Febr.* 24. and ſate about three weeks, according to this Proclamation, and the Writs for the Expences of the *Commons*, bearing date *March* the Twenty third next following.

Clauſ.

Clauſ. 23. E. 1. m. 4. Dorſo.

De Parliamento tenendo.

R*Ex Vicecomiti Northampton, ſalutem, Quia cum Comitibus Baronibus & ceteris Proceribus Regni noſtri ſuper remediis contra*
A *pericula quæ eidem Regno hiis diebus imminent providendum,* colloquium *habere volumus, &* tractatum *per quod eis mandavimus quod ſint ad*
nos die dominica *proximo poſt feſtum Sancti Martini in hyeme proximo futurum, apud Weſtminſter' ad* tractandum, ordinandum, & faciendum, *qualiter ſic hujuſmodi periculis obviandum, tibi precipimus firmiter injungentes, quod de* Comitatu *prædicto* duos *Milites & de qualibet* Civitate *ejuſdem Comitatus* duos *Cives, & de quolibet* Burgo
B duos *Burgenſes, de* diſcretioribus *& ad* laborandum potentioribus, *ſine dilatione eligi, & eos ad nos ad prædictos diem & locum venire facias, ita quod dicti Milites plenam & ſufficientem poteſtatem pro ſe &*
Communitate Comitatus prædicti, & dicti Cives & Burgenſes pro ſe, & Communitate, Civitatum, & Burgorum prædictorum, diviſim, ab ipſis, tunc ibidem habeant ad faciendum *quod tunc* de Communi conſilio *ordinabitur in præmiſſis, ita quod pro defectu hujuſmodi poteſtatis negotium prædictum infectum non remaneat quoquo modo, & habeas ibi nomina* Militum, Civium, Burgenſium, *& hoc breve. Teſte Rege apud Cantuariam tertio die Octobris.*

Two Knights, two Citizens, and two Burgeſſes choſen, &c.

C *Conſimiles literæ diriguntur* ſingulis Vicecomitibus *per* Angliam *& de eadem data.*

Cl. 23 Ed. m. 4. Dorſ.

Rex venerabili in Chriſto patri R. eadem gratia Cantuarienſi Archiepiſcopo, *totius Angliæ Primati, ſalutem, ſicut lex juſtiſſima provida circumſpectione ſacrorum principum ſtabilita, hortatur, & ſtatuit, ut quod omnes tangit, ab omnibus approbetur; Sic & innuit, evidenter, ut communibus periculis, per remedia proviſa communiter obvietur;*
D *Sane ſatis noſtris & jam eſt ut credimus per univerſa mundi climata divulgatum, qualiter Rex Franciæ de terra noſtra Vaſconiæ nos fraudulenter, & cauteloſe decepit, eam nobis nequiter detinendo, Nunc vero prædictis fraude, & nequitia, non contentus, ad expugnationem Regni noſtri claſſe maxima, & Bellatorum copioſa multitudine congregatis, cum quibus regnum noſtrum & Regni ejuſdem incolas hoſtiliter jam invaſit, linguam Anglicam ſi conceptæ iniquitatis propoſito deteſtabili poteſtas correſpondeat, quod Deus avertat, omnino de terra de-*
E *lere proponit, Quia igitur previſa jacula minus ledunt, & res veſtra maxime ſicut ceterorum regni ejuſdem concivium, agitur, in hac parte vobis mandamus in* fide *&* dilectione *quibus nobis tenemini,* firmiter injungentes, *quod die* dominica proxima *poſt feſtum Sancti Martini in hyeme proximo futurum, apud Weſtminſter perſonaliter interſitis Premunientes* Priorem *&* Capitulum *Eccleſiæ veſtræ,* Archidiaconum *totumque* Clerum *veſtræ* Diœceſis, *facientes quod iidem* Prior *&* Archidiaconi *in propriis perſonis ſuis, & dictum Capitulum per* unum,
F *idemque* Clerus *per* duos procuratores *idoneos, plenam & ſufficientem poteſtatem ab ipſis Capitulo, & Clero, habentes, una* vobiſcum *interſint, modis omnibus, tunc ibidem, ad* tractandum, ordinandum *&* faciendum, nobiſcum, *& cum* ceteris Prelatis *&* Proceribus, *&* aliis *incolis Regni noſtri,* qualiter ſic hujuſmodi periculis *& excogitatis maliciis obviandum, teſte Rege apud Wengeham triceſimo die Septembris.*

The Procurators or Clerks of the Clergy were to treat, ordain, do, &c.

The *Incolæ Regni*, were the Knights, Citizens, and Burgeſſes, mentioned in the former Writ, but not here enumerated.

Ibidem. *Consimiles literæ diriguntur* Episcopis *Elyen. Norwyc. Winton. & Roff. & de eadem data. Et etiam sub eadem forma scribitur Episcopis Dunelm. Karl. &* de eadem *data.*

Ibidem. *Consimiles literæ diriguntur* Archiepiscopo *Eborum Episcopis London. Lincoln. Ciceſtr. Exon. Heref. Sarum, Assanen. Bangoren. Electo Menevен. vel ejus vices gerenti & Episcopo Landaven. usque ibi premunientes & tunc diciter premunientes Decanos & Capitula Ecclesiarum suarum Archidiaconum totumque Clerum suarum Diœcesium facientes quæ quod iidem Decani & Archidiaconi in propriis personis suis & dicta Capitula per unum, idemque Clerus per duos procuratores idoneos plenam & potestatem sufficientem ab ipsis Capitulis & Clero habentes una, &c. ut supra. Teste ut supra.* A

Ibidem. *Consimiles literæ diriguntur W. Bathon. & Wellen. Episcopo & R. Coventr. & Lich. Episcopo usque ibi premunientes, &c. & tunc dicitur premunientes Priorem & Capitulum Bathon. & Decanum & Capitulum Wellen. Ecclesiarum suarum nec non Archidiaconum & Clerum, &c. & in alio brevi dicto Coventr. & Lich. Episcopo & dicitur sic Premunientes Priorem & Capitulum Coventr. & Decanum & Capitulum Lich. &c. ut supra. Teste ut supra.* B

Ibidem. *Sub eadem forma scribitur Abbati Sancti Augustini Cantuariæ usque ibi vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes quod die dominica proxima post festum Sancti Martini in hyeme proxima futura apud Westminster personaliter intersitis ad tractandum ordinandum & faciendum nobiscum & cum ceteris Prelatis & Proceribus &* aliis incolis *Regni nostri qualiter sic hujusmodi periculis & Excogitatis maliciis obviandum. Teste ut supra.* C

The *Incolæ Regni* were the same here as in the former Writ.

Ibidem. *Consimiles literæ & sub eadem data diriguntur* Abbatibus *subscriptis, N.* 70. D

Exempti.
- *Abbati de* Sancto Edmundo.
- *Abb. de* Waltham.
- *Abb. de* Sancto Albano.
- *Abb. de* Evesham.
- *Abb. de* Alnewyk.
- *Abb. de* Eglesion.
- *Abb. de* Sancta Agatha.
- *Abb. de* Barlings.
- *Abb. de* Thenenpholm.
- *Abb. de* Byleye.
- *Abb. de la* Dale.
- *Abb. de* Nenhus.
- *Abb. de* Cokersond.
- *Abb.* Croxton.
- *Abb. de* Sancta Radegund.
- *Abb. de* Herpe.

Exempti.
- *Abb.* Tichefeld.
- *Abb. de* Suleby.
- *Abb. de* Lawenden.
- *Abb. de* Torre.
- *Abb. de* Weslebeck.
- *Abb. de* Hales.
- *Abb. de* Bello Capite.

E

Magistro Militiæ Templi in Anglia.

Priori Hospit' in Angliæ.

Magistro Ordinis de Sempringham.

Exempti.
- *Abb. de* Furneys.
- *Abb. de* Sallay.
- *Abb. de* Holm Coltram.
- *Abb. de* Novo Monasterio.
- *Abb. de* Joreval.

F

Abbati

Abbati de Fontibus.
Abb. de Bella Landa.
Abb. de Mella.
Abb. de Kirkestede.
Abb. de Rupe.
Abb. de Ruhgford.
Abb. de Valle dei.
A *Abb. de* Gerndon.
Abb. de Stanle in Arderne.
Abb. de Pippewell.
Abb. de Cumbe.
Abb. de Blanca Landa.
Abb. de Basingwerk.
Abb. de Cumbermere.
Abb. de Crokesden.
B *Abb. de* Valle Regali.
Abb. de Deula Cresse.
Abb. de Mira Valle.
Abb. de Stanlawe.

Abb de Bildewas.
Abb. de Stanle in Wilts.
Abb. de Swynesheved.
Abb. de Warden.
Abb. de Boxle.
Abb. de Strattford.
Abb. de Tileteye.
Abb. de Bynedon.
Abb. de Quarrera.
Abb. de Leceleye.
Abb. de Binkeswell.
Abb. de Bello loco R.
Abb. de Sratta Florida.
Abb. de Flaxele.
Abb. de Tinterne.
Abb. de Kinges Woode.
Abb. de Waverle.
Abb. de Revesby.
Abb. de Parco Ludo.

C This Parliament did not meet on the *Sunday* after St. *Martins*, but was Prorogued to the *Sunday* next before St. *Andrew* the Apostle. *Teste Rege apud Odmer. 2 die Novembris.*

Cl. 23 Ed. 1. m. 2. Dors. de Parliamento prorogando.

D Rex. Vic. Ebor. Salutem. *Præcipimus tibi firmiter injungentes, quod* illos Milites, Cives, & Burgenses *de Balliva tua quos nuper ad præsens Parliamentum nostrum apud* London *inchoatum de mandato nostro venire fecisti, & qui* ab eodem Parliamento certis *de* causis recesserunt, *vel* alios *ad hoc* idoneos *loco ipsorum si* ad hoc *vacare non possint, usque* Westm. *ad idem* Parliamentum *quod ibidem duximus continuandum, venire facias. Ita quod sint ibidem in crastino Sancti Martini prox. futur. ad ultimum cum sufficienti potestate* Comitatus *tui &* Civitatum & Burgorum *prædictorum ad consentiendum*, &c. *Teste Rege apud* London 11 *die* Octobris.

Cl. 5 *Ed.* 2. m. 26. Dors.

A Precept to the Sheriffs to send again such Members as left the Parliament, or to choose others in their stead.

E *Memorandum quod* die Lunæ *prox. ante festum decollationis* Sancti Johannis Baptistæ, *Anno Regni* Regis Edwardi *fil. Regis* Edwardi Sexto. *Dom. Rex apud* Westm. *præcepit quod* Milites, Cives & Burgenses *qui ad Parliamentum Regis ibidem summonitum convenerant pro* Communitatibus, Civibus, & Burgis Angliæ *ad* prædicta remearent. *Ita quod* reverterentur *ibidem in* Crastino Sancti Michaelis *prox. futur.* sub. pænâ *quæ decet.* T. *Rege apud* Westm. 28 *die* Augusti.

Cl. 6 *Ed.* 2. m. 27. Dors.

The King Prorogues, or Adjourns the House of Commons. And he punished the Members for Absence.

F Rex. *Vic.* Northumb. *salutem. Licet nuper super diversis & arduis negotiis nos & statum Regni nostri tangentibus* Parliamentum *apud* Westm. *in Quindena Sancti* Andreæ *prox. futur. tenere ac ibidem per* Isabellam Reginam Angliæ *Consortem nostram charissimam, & per* Edwardum *filium nostrum primogenitum,* Custodem *ejusdem Regni, nobis extra idem Regnum tunc agentibus, atque Prælatos, Proceres & Magnates Regni prædicti, haberi voluissemus* Colloquium & tractatum. *Tibi præciperimus quod de communitate Com. tui* duos Milites, & *de singulis* Burgis duos Burgenses venire *faceres ad diem & locum prædictos. Ita*

Cl. 20 *Ed.* 2. m. 4. Dors.

A Prorogation before Meeting of the Parliament.

Ita quod dicti Milites a Communitate dicti Com. & dicti Cives a Communitatibus dictarum Civitatum, & prædicti Burgenſes a Communitatibus Burgorum prædict. plenam & ſufficientem haberent poteſtatem ad conſentiendum hiis quæ tunc ibidem de communi Conſilio Regni noſtri contigeret ordinari. Quia *tamen* quibuſdam de cauſis neceſſariis & utilibus prædicta Parliamentum & *Tractatum* uſque *in* craſtino Epiphanie Domini *prox. jam. futur. apud dictum locum* Weſtm. *tunc tenend. duximus* prorogand. *Tibi ſignificamus quod prædictos Milites, Cives & Burgenſes ad dictam quindenam apud dictum locum* Weſtm. *ex cauſa Parliamenti & tractatus prædictorum* accedere non oportet & hoc *eis* ſcire facias *ex parte noſtra. Tibi inſuper præcipimus, quod* prædictos Milites, Cives & Burgenſes venire facias *in dicto craſtino apud dictum locum* Weſtm. *cum ſufficienti poteſtate ſicut prædictum eſt. Et habeas ibi nomina prædictorum Militum Civium & Burgenſium, & hoc breve, & hoc nullatenus omittas. Teſte* R. *apud* Ledbury, 3 die Decemb. A B

Eodem modo mandatum eſt ſingulis, Vic. per Angl. ſub eadem data.

Cl. 24 *Edw.* 3. p. 2. m. 3. To all Sheriffs in *England.*

Quod de Comitatu tuo duos Milites, &c. *de diſcretioribus & probioribus Militibus, Civibus & Burgenſibus, & ad laborand. potentioribus,* Qui non ſint placitatores querelarum manutentores *aut* ex hujuſmodi queſtu viventes, *&c. ſed homines valentes & bonæ fidei & pubcum commodum diligentes eligi,* &c. *ut propter improvidam electionem Militum, Civium aut Burgenſium prædictorum dicta negotia noſtra infecta non remaneant.* T. R. *apud* Weſtm. xxv. *die* Novembr. C

Bundel of Writs of Summons, 26 *Edw.* . with the Returns indorſed.

One Burgeſs only Summoned.

Edwardus *Dei Gracia, Rex* Angl. & Franc. & *Dominus* Hiberniæ *Ballivis Villæ de* Sancto Botolpho *ſalutem. Quia pro magnis, & urgentibus negotiis & nobis ſubitis ad nos perlatis nos & ſtatum ac jura* Regni noſtri Angliæ ſumme concernentibus *ſuper quibus feſtinum & providum oportet ordinari remedium cum* Prælatis Magnatibus & Proceribus *ac aliis* fidelibus *noſtris dicti regni noſtri apud* Weſtm. *in Craſtino Aſſumptionis beatæ Mariæ prox. futur.* colloquium *habere volumus & tractatum. Vobis præcipimus firmiter injungentes quod* unum Burgenſem *de* provectioribus & magis expertis Burgenſibus *ejuſdem* Ville *ſine dilatione eligi & ad dictos diem & locum venire fac. Ita quod* idem Burgenſis pro ſe & communitate villæ *prædictæ* plenam & ſufficientem poteſtatem *habeat ad tractand. conſulend. & conſentiend. hiis quæ tunc divina favente clementia* de communi conſilio *contigerit* ordinari *ſuper* negotiis antedictis, *& ut homines ab iſta* occupatione autumpnali *quo minus poſſumus retrahamus* unum tantum Burgenſem *de* dicto Burgo *ad* dictum Conſilium mittend. habere volumus iſta vice. *Et habeatis ibi nomen prædicti* Burgenſis *& hoc breve. Nos de die receptionis præſencium & per quem vobis delate fuerint certificantes tunc ibidem.* T. *me ipſo apud* Weſtm. xx. *Die* Jul. *anno regni noſtri* Angl. *viceſimo ſexto, regni vero noſtri* Franc. *tertio decimo.* D E F

Per ipſum Regem & Conſ.

Conſ.

Conſ. brevia diriguntur villis ſubſcriptis, viz.

MAjori & Ballivis Villæ *Briſtoll.*
Ballivis Villæ Magnæ *Jernemouth.*
Majori & Ballivis Villæ de *Kingſton* ſuper *Hull.*
Majori & Ballivis Villæ de *Lenne.*
Majori & Ballivis Villæ *Southampton.*

Conſimilia brevia diriguntur Civibus ſubſcriptis mutatis mutandis, T. *ut ſupra.*

MAjori & Ballivis Civitatis *Ciceſtr.*
Majori & Ballivis Civitatis *Ebor.*
Majori & Ballivis Civitatis *Linc.*
Ballivis Civitatis ſuæ *Norwic.*

Conſimilia brevia diriguntur **ſingulis Vic. Angl.** *mutatis mutandis,* T. *ut ſupra.* *pro* **uno Milite** tantum.

Edwardus *Dei Gracia Rex* Angl. *&* Franc. *&* *Dominus* Hiberniæ *Ballivis villæ de Sancto Botolpho. ſalutem. Quia pro* **magnis & urgentibus negociis** *nos &* **ſtatum** regni noſtri Angl. **ſumme concernentibus** *cum* **prælatis magnatibus proceribus & aliis fidelibus** *noſtris dicti regni apud* Weſtm. *die Lunæ prox. poſt feſtum Sancti* Mathei *Apoſtoli proximo futur.* **colloquium** *habere volumus &* **tractatum** *vobis præcipimus firmiter injungentes, quod* **duos Burgenſes** *de* provectioribus *&* diſcretioribus *&* magis expertis Burgenſibus **Ville** *prædictæ de* aſſenſu *ejuſdem* Villæ *ſine dilatione eligi & eos ad diem & locum prædictos venire fac. Ita quod iidem Burgenſes* pro ſe *&* **communitate Ville** prædictæ ſufficientem poteſtatem *habeant ad tractand. conſulend. & conſentiend. his quæ tunc divina favente clementia de* **communi conſilio** *contigerit ordinari ſuper negociis antedictis. Et hoc nullatenus omittatis.* T. *me ipſo apud* Weſt. **xb die Julii,** *anno regni noſtri* Angl. **vicesimo ſeptimo** *regni vero noſtri* Franc. *Quartodecimo.*

Per ipſum Regem & Conſil.

Bundel of Writs of Summons, 27 *Edw.* 3. with the Returns indorſed.

Two Burgeſſes.

Conſ. brevia diriguntur Burgis ſubſcript.

MAjori & Ballivis *Bedds.*
Majori & Ballivis Villæ *Briſtoll.*
Majori & Ballivis *Coventr.*
Majori & Ballivis *Derb.*
Majori & Ballivis *Exon.*
Majori & Ballivis de *Gippewico.*
Majori & Ballivis Villæ *Glouc.*
Ballivis Magnæ *Jernemuth.*
Majori & Ballivis de *Kingſton* ſuper *Hull.*
Majori & Ballivis *Lincoln.*
Majori & Ballivis Villæ *Northampt.*

Majori

Majori & Ballivis Villæ *Nottingham.*
Majori & Ballivis *Oxon.*
Majori & Ballivis *Rich.*
Majori & Ballivis Villæ *Salop.*
Majori & Ballivis *Staff.*
Majori & Ballivis *Warr.*

A

Conf. pro Civibus mutatis mutand.

MAjori & Ballivis Civitatis *Ebor.*
Ballivis Civitatis *Elienſis.*
Majori & Ballivis Civitatis *Heref.*
Majori & Vicecom. *London.*
Majori & Ballivis de *Norwico.*
Majori & Ballivis de *Welles.*
Majori & Ballivis *Wygorn.*
Majori & Ballivis *Wynton.*

B

Bundel of Writs of Summons, *27 Edw. 3.* with the Returns indorſed.

But one Kt. for a County, when two Burgeſſes, *&c.*

Edwardus *Dei Gracia Rex* Angliæ, *&* Franc. *&* *Dominus* Hiberniæ, *Vic.* **Bedds** *&* **Bucks** *ſalutem. Quia pro* **magnis** *&* **urgentibus** negociis **nos** *&* **ſtatum** regni noſtri Angl. **ſumme concernentibus** *cum* Prelatis Magnatibus Proceribus *&* aliis fidelibus dicti regni *apud* Weſtm. *die Lunæ prox. poſt feſtum Sancti* Mathei *Apoſtoli prox. futur.* **colloquium** *habere volumus & tractatum. Tibi præcipimus firmiter injungentes quod* **unum Militem** *cinctum gladio de* diſcretioribus Militibus *&* *magis* expertis *de* **utroque Com.** *prædictor. aſſenſu eorundem Com. ſine dilatione eligi, & eos ad diem & locum prædictos venire fac. Ita quod* **uterque** eorundem Militum **pro ſe** *&* **communitate** Com. *ſui* **plenam** *&* **ſufficientem** poteſtatem *habeat ad tractand. conſulend. & conſenciend. hiis quæ tunc divina favente clementia de* **communi conſilio** *contigerit* ordinari *ſuper* negociis antedictis. *Et hoc nullatenus omittas.* T. *meipſo apud* Weſtm. **xo die Jul.** *Anno regni noſtri* Angl. **vicesimo ſeptimo** *regni vero noſtri* Franc. *Quartodecimo.*

C

D

Conſ. brevia diriguntur Vicecom. Ang.

Cl. 31 *Edw. 3.* m. 2. Dorſ.

Rex Vic. Kanc. *&c. Tibi præcipimus firmiter injungentes, quod de Com. tuo duos Milites, gladiis cinctos & de qualibet Civitate com. illius duos Cives, & de quolibet Burgo duos Burgenſes, de diſcretioribus & probioribus Militibus, Civibus & Burgenſibus, Com. Civitatum & Burgorum eorundem, & de elegantioribus perſonis eligi,* &c. *Ita quod,* &c. *ſeu propter improvidam electionem Militum, Civium, aut Burgenſium prædictorum dicta negotia noſtra infecta non remaneant,* &c. *Et habeas ibi nomina prædictorum Militum, Civium & Burgenſium, & hoc breve.* Et ſcire facias eiſdem, quod propter arduitatem negotiorum prædictorum & celeriorem expeditionem eorundem volumus primo die Parliamenti perſonaliter intereſſe, per quod noluimus, *nec* intendimus

E

Abſent Members of the Commons Houſe made their *Excuſe* to the King.

aliquem ad dictum Parliamentum **ſummonitum** *quin* **eodem** primo die perſonaliter interfuit, habere ullo modo **excuſatum,** *nec* **excuſationem** *inde* **admittere** aliqualem. *Teſte* R. *apud* Weſtm. 5. *die* Decembr.

F

Conſimilia brevia diriguntur ſingulis Vicecomitibus per Angliam, necnon Henrico *Duci* Lancaſtr. *vel ejus locum tenenti ſub eadem data.*

Rex

Cl. 45 Ed. 3 m. 2. Dorſ.

Rex Vic. Kanc. *ſalutem. Cum Comites, Barones, Magnates, & Communitas Regni noſtri* Angliæ *in ultimo Parliamento noſtro apud* Weſtm. *tento in auxilium expenſarum quas tam pro ſalvatione & defenſione Regni noſtri* Angliæ *& Navigii ejuſdem Regni quam pro expeditione guerræ noſtræ* Franciæ *nos facere oportebit, conceſſerint nobis quoddam ſubſidium viginti & duorum ſolidorum & trium denariorum levand. & percipiend. de qualibet Parochiâ dicti Regni. Ita quod quælibet Parochia majoris valoris auxilians ſit & contributoria alteri Parochiæ minoris valoris juxta ratum, ea intenſione quod dictum ſubſidium ad ſummam, quinquaginta millium librarum ſe attingeret. Et quia habita ſuper levatione ſubſidii prædicti per nos & Conſilium noſtrum deliberatione diligenti, videtur eidem Conſilio, quod dicti viginti & duo ſolidi, & tres denarii de qualibet Parochiâ dicti Regni ſic levandi ad dictam ſummam quinquaginta millium librarum per multum non attingunt; & ſic verſimiliter formidatur, quod nobis de dicta ſumma quinquaginta milli m librarum ad terminos ſtatutos juxta intentionem conceſſionis prædictæ reſponderi non poteſt. Nos volentes plenius informari* ſuper declaratione intentionis conceſſionis ſubſidii prædicti, qualiter levatio ejuſdem celerius fieri poſſit & conſiderantes, quod oneroſum eſſet omnes Magnates *ac* Milites, Cives & Burgenſes, qui ad dictum Parliamentum noſtrum, de mandato noſtro venerant, iterum & hac cauſa conveniri; ordinavimus *ut* laboribus parcatur & expenſis, *cum* quibuſdam eorundem Magnatum *Militum* Civium & Burgenſium prædictorum *ſuper præmiſſis* Colloquium, *habere &* Tractatum. *Tibi præcipimus firmiter injungentes, quod* Thomam Apuldrefeld, unum Militem Com. prædicti, Edmundum Hayne unum Civium Civitatis Cantuar. & Johan. Fynchenfeld unum Civium Civitatis Roffen, qui *pro* communitate Com. & Civitatum *prædict. ad dictum Parliamentum de mandato noſtro venerunt*, ſi ſuperſtites *fuerint, alioquin* ſocios ſuos *qui cum eis de veniendo ad Parliamentum prædictum electi fuerunt, præmunire facias; quod ipſi* omnibus aliis prætermiſſis & quacunque excuſatione ceſſante, *in propriis perſonis ſuis ſint apud* Wynton *in Octabis Sanctæ* Trinitatis *prox. futur.* ad informand. Nos & dictum Conſilium noſtrum, ſuper modo & forma quibus nobis de dicta ſumma quinquaginta millium librarum celerius & commodius juxta intentionem conceſſionis prædictæ poterit reſponderi. *Et interim diligenter inquires de numero Eccleſiarum Parochialium, & Capellarum & Præbendarum in Com. prædicto, tam in manibus ſecularium quam Religioſorum exiſtentium, & Nobis de nominibus eorundem, ac de nominibus Militis & Civium prædictorum ad dictos diem & locum diſtincte & aperte certifices hoc breve Nobis remittens. Et hoc nullatenus omittas.* T. R. *apud* Weſtm 27 *die* Aprilis.

One Knight for a County, one Citizen for a City, one Burgeſs for a Burgh, and thoſe named to the Sheriff.

Vic. Surr. *de præmuniendo* William *de* Cobeham Militem, Thomam Dane Burgenſem *de* Suthwerks, Petrum Somere Burgenſem *de* Guildeford, & Johan. Bodkesham Burgenſem *de* Blechyngleg.

Conſimilia brevia diriguntur ſingulis Vicecom. per Angl. & Burg. *ſub* eadem data, *viz.*

The *Knights, Citizens,* and *Burgeſſes* had *Writs* for their Expences in this *meeting* at Winchester, *Cl.* 45 *Ed.* 3. *m.* 22. *Dorſ. T. R* 17 *die Junii.* And though in theſe Writs it is expreſſed by theſe words

Magnum Consilium nostrum, yet from this *Writ* of *Summons* it is evident, it did the Business of a Parliament, and so no great matter for the name.

In the same manner Writs were directed to all the Sheriffs in ENGLAND.

Cl 7 R. 2. m. 32.

The King Dischargeth one of the Knights of *Surrey*, because he was a Banneret, and directs the Sheriff to Choose another.

Rex Vic. Surry *salutem. Quia ut accepimus, tu* Thomam Tamops *Chivaler, qui Bannerettus est, sicut quamplures antecessorum suorum extiterunt ad essendum* unum Militum *venientium ad Proximum* Parliamentum nostrum *pro* Communitate Comitatus prædicti, *de assensu ejusdem Comitatus, elegisti: Nos advertentes, quod hujusd. Baneretti* ante hæc tempora, *in* Milit. Comitat. ratione alicujus Parl. eligi, minime consuev. ipsum *de* officio Militis *ad* dictum Parliamentum *pro* communitate Comitatus *prædicti venturi, exonerari volumus*; *Et ideo tibi præcipimus, quod* quendam alium Militem *idoneum & discretum gladio cinctum* loco ipsius Thome eligi, *& eum ad* diem & locum Parliamenti prædicti venire facias. *Cum plena & sufficienti potestate ad consentiend. his quæ in Parliamento prædicto fient, Juxta tenorem primi brevis nostri tibi pro electione hujusmodi Militum directi*; *& nomen ejus nobis scire facias. Teste Rege apud* Westm. *octavo die* Octobris.

Consimile Breve dirigitur Vic. Surrey *pro* Jacobo Berners, *qui est de* retinentia Regis *& familiaris & unus* Militum *Cameræ Regis.* T. R. *apud* Westm. 18 *die* Octob.

A

B

C

D

Jani

E

F

Jani Anglorum facies Antiqua:

OR SOME

ANIMADVERSIONS

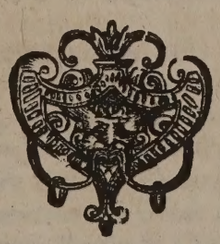
UPON A

BOOK,

CALLED,

Jani Anglorum facies Nova.

With many Additions.



In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes*, over against *Exeter-Exchange* in the *Strand*. MDCLXXXIV.

Jani Anglorum facies Antiqua:

OR SOME

ANIMADVERSIONS

UPON A

BOOK

CALLED,

Jani Anglorum facies Nova.

With many Additions.

Animadverſions

UPON A

BOOK,

CALLED,

Jani Anglorum facies Nova.

AS the Controverſie between Mr. *Petit* and my Self, is concerning matter of Fact only; whether the **Commons** were, or were not, conſtituent parts of the Government or Common-Councils, before 49 of *Hen.* 3. So it is here, whether the **Common-Council** of the Kingdom mentioned in King *John*'s Charter, was a General Council, as to all publick Matters and Buſineſs of the Kingdom; and whether he hath revived and cleared the Monuments of Antiquity, touching the Great Councils of the Kingdom, *&c.* from the firſt of *William* the Firſt, to the 49 of *Hen.* 3. But this new Face-maker, new Government-maker, and new Parliament-maker, hath obſerved no Order or Method, and his Work being as wild, extravagant, and confuſed as his Notion, I can only pitch upon ſome parts of his Treatiſe, and thoſe the moſt material, which are intelligible, and paſs by his impertinent and unintelligible vagaries, until ſuch time as (if he can) he makes them to be better underſtood, by explaining his meaning.

That King John's **Charter** *exhibits the full Form of our* Engliſh *Great and General Councils in thoſe days; if I may ſo ſay, is the vulgar Error of our Learned Men, and 'tis that which hath given the only prejudice to the pains of the Judicious Mr.* Petit, *who, I muſt ſay, hath laid the Foundation and ſure Rule of Underſtanding; the antient Records and Hiſtories which mention the Great and General Councils in his diſtinctions between the* Curia Regis & Commune, *or* Generale Concilium Regni, Barones Regis, & Barones Regni, *&c.* *Fan. Angl.* p. 1.

Whether Judicious Mr. *Petit* doth at all underſtand our antient Records and Hiſtories, or whether the better for his ungrounded diſtinction of *Barones Regis*, and *Regni*, I leave the Impartial Reader to judge, when he hath peruſed this Anſwer, to his antient Right of the Commons Aſſerted. *Vid.* Anſw. fol. 112.

The Author calls for the words of King *John*'s Charter, to obſerve *whether they are meant of all General or Common-Councils, for making* P. 2.

making of Laws or voluntary Gifts to the Crown, or only of ſuch as concerned the Kings immediate Tenents.

P. 2, 3. *Nullum Scutagium vel auxilium ponam in Regno noſtro niſi per Commune conſilium Regni noſtri niſi ad Corpus noſtrum redimendum, & ad primogenitum filium noſtrum Militem faciendum, & ad primogenitam filiam noſtram ſemel maritandam & ad hoc non fiet niſi rationabile auxilium; ſimili modo fiat de Civitate Londinenſi & Civitas Londinenſis habeat omnes antiquas Libertates, & liberas Conſuetudines ſuas tam per terras quam per aquas. Præterea volumus & concedimus quod omnes aliæ Civitates & Burgi & Villæ & Barones de Quinque Portubus & omnes Portus habeant omnes Libertates & liberas Conſuetudines ſuas & ad habendum Commune Conſilium Regni aliter quam in tribus Caſibus prædictis.* A

From hence the new Face-maker infers, that the City of *London*, all Cities, Burghs, Pariſhes, or Townſhips, that is, the *Villani*, their Inhabitants, the Barons or Free-men of the five Ports, and all Ports ſhould, amongſt other Free Cuſtoms, enjoy their Right of being of, or conſtituting the Common-Council of the Kingdom. B

Whereas the words of the Charter ſignifie no more than that, as in other parts of the Kingdom he would not exact Aid, without the Common-Council of the Kingdom, unleſs in three caſes, to **Redeem his Body, make his eldeſt Son a** Knight, and **Marry his eldeſt Daughter**; So it ſhould be in the City of *London*, there ſhould be no Aid taken of ſuch as held their Houſes in *Capite* of the King; but in the three Caſes aforeſaid, or concerning the * City it ſelf, which held in *Capite*, and ſhould pay no other Aid. *And that it ſhould have all antient Liberties and free Cuſtoms, as well by Land as by Water*; that is, its local Cuſtoms of Buying, Selling, Trading, paying of Toll, Regulating ſeveral Matters in the City, puniſhing Offenders, making By-Laws, *&c.* And further, that all Cities, Burghs, Towns, Barons, or Free-men of the five Ports, and all other Ports, ſhould have all their Liberties and Free Cuſtoms; that is, their Local Uſages, which were then, and yet are various and different in ſome things, in all the Burghs, Cities, and Towns of *England*. C D

* Pet. 15. Joh. p. 2. m. 2.

But for the Right of the Inhabitants of theſe places, of being of, or conſtituting the Common-Council of the Kingdom. This Gentleman ſhould not only have ſaid, and ſuppoſed ſuch a Right, but ought to have proved that amongſt their other Cuſtoms, this was one. E

P. 3. *He proceeds and ſays, but ſo much is certain, that if theſe (Inhabitants he means) or any beſides the Tenents in Capite, came before this Charter, and were at the making of it, their Right is preſerved to them by it, and is confirmed by the Charter of* Hen. 3. c. 9. *which are almoſt the ſame words* before recited, concerning the antient Rights of *London*, and other Cities and Burghs. F

P. 4.

If he means by thoſe that came before, and were at the making of the Charter, ſuch as were Members of the Great Councils, and had Suffrages or Voices in them, and not the Numbers or Rabble that then

then attended such Conventions, he must first prove that the Inhabitants of Cities and Burghs were such, before he can say they had their Rights of being Members, *&c.* preserved to them, as was above intimated,

Immediately after, as an evidence of what was the Custom and Right of these Inhabitants, *&c.* and as to the Great Council of the Kingdom, he says, the Charters were made to, and in the presence of all the Clergy, Counts, Barons, and Free-men of the Kingdom, which proves not they had any Vote, or Suffrage in the making of them; nor indeed had they, for the Great Charters were only in the Petitions of the People, drawn into the Form of a Charter, and passed under the Kings Seal, as his meer voluntary free Grants and Concessions, without any Votes, Suffrages, or Authority of the People; and that they were taken as such, and so received by them. The Preambles and Charters themselves are a sufficient Testimony. Ibidem.

Magna Charta on Petitions of the People Granted by the King.

First, King *John*'s Charter, when he saw the Barons too powerful for him, then *Gratanter eis concederet leges & libertates quas petebant*, he willingly granted the Laws and Liberties which they asked or petitioned for. *Mat. Paris*, fol 255. n. 30. 50.

The Preamble of the Charter runs thus, *Johannes Dei Gratia Rex Angliæ*, &c. *Sciatis nos Intuitu Dei & pro salute animæ nostræ, &c. per Consilium venerabilium Patrum*, &c. *Et nobilium virorum*, &c. *inprimis concessisse Deo, & hac præsenti Charta confirmasse pro nobis & hæredibus nostris in perpetuum, quod Ecclesia Anglicana libera sit, & habeat jura sua integra*, &c. And in the Charter it self, *Concessimus etiam & omnibus liberis hominibus nostri Regni Angliæ, pro nobis & Hæredibus nostris in perpetuum omnes libertates Subscriptas* habendas & tenendas *eis & hæredibus suis de nobis, & hæredibus nostris*; (that is) and we have also Granted to all our Free-men of the Kingdom of *England*, for us and our Heirs for ever, all the under-written Liberties, to *Have* and to *Hold* to them and their Heirs, of us and our Heirs, *&c.* Ibid. fol. 256. Lin. 18.

The Preamble of the Charter vulgarly attributed to *Henry* the Third, is clear in this case. *Henry* by the Grace of God, *&c.* Know ye, that we to the Honour of Almighty God, and for the Salvation of the Souls of our Progenitors and Successors Kings of *England*, to the advancement of Holy Church, and amendment of our Realm, of our meer and free will, have Given and Granted to all Archbishops, Bishops, Abbats, Priors, Earls, Barons, and to all Free-men of this our Realm, these Liberties following. *Pulton*'s Stat. fol. 1.

And then as it is in the Charter it self.

First, We have Granted to God, and by this present Charter, have confirmed for Us and Our Heirs for ever, that the Church of *England* shall be Free, and shall have all her whole Rights inviolable. Ibid. c. 1.

We have Granted also, and Given to all the Free-men of our Realm, for Us and our Heirs for ever, these Liberties under-written; to have and to hold to them and their Heirs, of Us, and our Heirs for ever

P. 3.

The meaning of *Villæ* in K. *John's Magna Charta.*

Tenures, S. ſt. 171.

ever, all Cities, Burghs, Pariſhes, or Townſhips; ſo he Tranſlates **Ville**, as it follows *Civitates & Burgi* here in the Charter, but beſides all reaſon in the World; for in this place **Ville** & *Burg* muſt be all one, or at leaſt **Ville** muſt be meant of the ſmall Towns incorporated; and **Burgh** of the Great ones, or the *Burgi Dominici*, the Kings Burghs, or ſuch as held of him *in Capite*: *Littleton* ſays, *Cheſcun Bourgh eſt vne* Ville, *mes nemy è Converſo.* Every Burgh is a Town, but every Town is not a Borough. And we have at this day many Towns in *England* which are Incorporated, and enjoy ſpecial Priviledges, though they are no Parliamentary Burghs, nor do ſend Burgeſſes to Parliament. A

And in the Writs of Summons for Election of Parliament Burgeſſes.

Bundles of Writs of Summons, 26 *Ed.* 3.

* Ibidem.

The Writs are thus moſt frequently Directed, as appears by the Bundles of Original Writs themſelves. *Edwardus Dei Gratia Rex Angl.* &c. *Ballivis Villæ de Sancto Botho ſalutem, Edward* by the Grace of God, King of *England*, &c. To the Bayliffs of the Town of *Boſton*, Greeting. * *Conſ. Brevia Diriguntur villis ſubſcriptis*, (viz.) *Majori & Ballivis Villæ Briſtol, Ballivis Villæ magnæ Jernemouth, Majori & Ballivis Villæ de Kingſton ſuper Hul, Majori & Ballivis Villæ de Lenne, Majori & Ballivis Villæ Southampton*, &c. Of ſome of theſe **Ville**, muſt that word uſed in the place he cites be underſtood, for they were to have and enjoy *Omnes Libertates & Liberas conſuetudines ſuas*, all their Liberties and Free Cuſtoms which they had and enjoyed before the making of the ſaid Charter. What Liberties, what Free Cuſtoms did common ordinary Towns and Pariſhes ever enjoy? What Municipal Laws, what Private Laws and Priviledges had they? If they had none of theſe, they could not be the **Ville** here meant. B C

P. 4.

* Cl. 17. Joh. M. 2. Dorſ.

* *Paris*, fol. 261, 262.

But the Record he ſays, which Mr. *Selden* cites in his Titles of Honor, fol. 587. in the Margin, puts it out of all doubt, that the Charter was made by them all, *(viz.)* the Clergy, Counts, Barons, and Free-men of all the Kingdom; he gives us a parcel of it, as much as he thinks ſerves his turn. * *Hæc eſt Conventio inter Dominum Johannem Regem Angliæ ex una parte, & Robertum filium Walters Mareſcallum Dei & Sanctæ Eccleſiæ, & Ric. Com. de Clare*, &c. *& alios Comites & Barones & Liberos homines totius Regni ex altera parte*, &c. This is the Agreement between *John* King of *England* on the one part, and *Robert Fitz-Walter* **Mareſhal** of the **Army** of God and **Holy Church**, *Richard* Earl of *Clare*, and ſix Earls and ſix Barons more there named, and other Earls, Barons, and Free-men of the whole Kingdom. That is to ſay, that the Earls, Barons, and others before-written, ſhould hold the City of *London* of the Livery and Grant of the King; and the Archbiſhop of *Canterbury* ſhould hold the *Tower* of *London* of the ſame Livery and Grant, until the Oaths that all concerned were to take through the whole Nation, had been taken to obſerve the **Commands** of the * five and twenty **Barons**, which were choſen to compel the King to keep the Charters, *&c.* and for performance of other things relating thereto, the whole Record is publiſhed at the end of theſe Animadverſions. D E F

But

But how by that he can make it out, that King *John*'s Charter was made by all the Free-men of *England*, there seems to me not the least appearance. If under the words **Liberi homines**, all the Free-men, or Free-Tenents, of what condition soever, were comprehended; yet here is nothing in this Record, that any ways proves they made King *John*'s Charter; but the *Liberi homines* here, were the same which the King calls *Liberi homines nostri* in his Charter, and immediately Grants them several Relaxations of the rigid Feudal Tenure, by which 'tis apparent, these *Liberi homines* were Tenents *in Capite*, and yet neither was the Charter made by them, as is before intimated. See more of *Liberi homines* in the *Glossary* under that Title.

Paris, fol. 256. n. 10, 20, &c.

Liberi homines in some places of King *John*'s C. used for *Tenents in Capite.*

But I will take the words together, even as they who are fond of the Conjecture of the Tenents in Capite, *being the full Representative Body of the Nation would have it.*

P. 6.

Et ad habendum Commune Consilium Regni de **auxiliis assidendis aliter quam in tribus Casibus,** & de **scutagiis** *assidendis submoneri faciemus Archiep. Ep. Abb. & Majores Proceres Regni sigillatim per literas nostras & præterea submoneri in generali per Vice-Comites, & Ballivos nostros omnes alios qui de nobis tenent in Capite ad certum Diem, scilicet ad terminum Quadraginta dierum ad minus, & ad certum locum,* **in omnibus literis submonitionis Causam submonitionis illius Exponemus,** *& sic facta submonitione negotium procedat ad diem assignatum, secundum consilium eorum, qui præsentes fuerint, quamvis non omnes submoniti venerint.*

The Common-Council in King *John*'s Charter, a General Council of the Kingdom, *&c.*

It may very well be thought these words duely weighed and understood, were sufficient to satisfie any reasonable man, that the Tenents *in Capite* were a General Council, for the dispatch of all publick Business, and making voluntary **Gifts** to the Crown; for by them 'tis apparent they **Assessed Aids**, which were Publick Taxes upon all Persons of the Kingdom, that were able to pay them: for so much **auxilium** doth in this, and many other Records import, as in *Pat.* 8, 9. Johan. M. 3. Dorss. *Rex omnibus*, &c. *Sciatis quod per commune consilium & assensum Concilii nostri apud Oxon. provisum est ad Defensionem Regni nostri & recuperationem Juris nostri concessum est, quod quilibet laicus homo totius Angliæ de cujuscunque feodo sit, qui habet in Anglia redditus & catalla det nobis in auxilium de unaquaque mercata redditus sui annualis duodecim Denarios, & de unaquaque cujuslibet manerici catalli mobil. quam habuit in octabis purificationis Beatæ Mariæ scilicet ad terminum Concilii* xii. *Denar.* &c. T. *meipso apud Northampton* xvii. die Febr. *&* *Pat.* 8, 9. *Johannis numb.* 2. *Rex Archi. & officiali & toto Clero Archiepiscopatus Cantuar. salutem. Nostis satis quod Archiepiscopi Episcopi Abbates Priores & Magnates Regni nostri* **auxilium** *nobis fecerant ad Defensionem Regni nostri & recuperationem terrarum nostrarum. Verum quia de vobis confidimus, quod nos & honorem nostrum diligitis, & Defensionem Regni nostri, & recuperationem terrarum nostrarum affectatis. Nos rogamus attentius quatenus tale* **auxilium** *nobis ex parte vestra faciatis, ut inde grates vobis facere debeamus, & quod alii Rectores Ecclesiarum* **dicint** *vestri ad* **auxilium** *nobis faciendum exemplo vestro facilius invitentur*, &c. T. *meipso apud Ebor.* 26 *Die Maii.*

This Aid *Paris* calls *Partem tertiam Decimam*, fol. 221. lin. 49. and he begins the year always at *Christmass.*

Note who were the *Commune Consilium* that gave the Aid mentioned in the former Record An Aid.

Cl. 7. H. 3. M. 23 Dorſ.

Rex vic. Kanc. ſalutem, Scias quod exigente neceſſitate terræ Sanctæ de novo proviſum eſt & conceſſum coram nobis & conſilio noſtro præſentibus Archi. Cantuar. Epiſcopis Comitibus & Magnatibus noſtris de communi omnium voluntate, quod quilibet Comes conferat Domino Regi Jeruſalem in auxilium *terræ prædictæ* iii *Marc. Baro* i *Marc. Miles* xii *Denar. Quilibet terram excolenis* i *Denar. & quilibet qui terram non habet, catalla habens ad valenc. dimid. Marc. tam infra Civitates & Burgos quam extra ſimiliter* i *Denar.* &c. A

A Poll, or Head-Tax.

The xv^th^ part of all the Moveables of *England,* as well of Eccleſiaſticks as Laicks, which was given to *Henry* the Third in the Ninth of his Reign, by the Archbiſhops, Biſhops, Earls, Barons, Abbats and Priors only, for the confirming of King *John*'s Charter. *Mat. Paris* calls auxilium. See this Anſwer for the Hiſtory of Granting that Charter, f. 125. F. 126. B

Fol. 222. n. 10. 20.

Cl. 16. *Hen.* 3. M. 2. Dorſ.

The Fortieth part of all Moveables of the Subjects in general, Granted to *Henry* the Third the Sixteenth of his Reign, was called auxilium an Aid. *Conceſſerunt nobis in* auxilium *Quadrageſimam partem omnium mobilium,* &c.

Cl. 21. *Hen.* 3. M. 7. Dorſ.

The Thirtieth part of all Moveables, *&c.* Granted to the ſame King, in the One and twentieth year of his Reign, was likewiſe called an Auxilium an Aid. *Nobis conceſſerunt in auxilium triceſſimam partem omnium mobilium,* &c. C

Now if (as is here ſhewn) by Records, before, and near the time of the Granting of King *John*'s Charter, *Auxilia,* Aids, were a Thirteenth part of all Moveables, a Poll or Head-Tax; a fifteenth, fortieth, and thirtieth part of all Moveables of all the Subjects, and theſe to be aſſeſſed by the *Tenents in Capite*; not doubt but the *Tenents in Capite* were the General Council of the Nation, ſeeing they might Tax others beſides themſelves, that is, all the Subjects in the Nation. D

Further, If they were a Great Council of the Kingdom for Aids and Eſcuage only (which is hardly reconcilable to Senſe) why was the Cauſe of Summons to be Declared in every Writ of Summons to the great Barons and *Tenents in Capite*; if they were only ſummoned about Aids and Eſcuage, or other ordinary Buſineſs of courſe, the Cauſe of Summons needed not to have been Declared, *in omnibus Literis ſubmonitionis cauſam ſubmonitionis illius exponemus.* E

Laſtly, If all Free-men, or as our Author ſays in other places, all Proprietors were Members of the Great and General Council of the Nation; 'tis ſtrange there ſhould not have been the ſame care taken that they might be Summoned, as well as the *Tenents in Capite*; certainly they came not to them by Inſtinct, nor is it ſcarce probable that they would leave their Ploughs and Country Buſineſs, to travel from one remote part of *England* to another to theſe Great Councils, which ſeldom continued above three or four days, if they had had right ſo to do. F

The truth is, there were not in *William* the Conqueror's Reign (as appears by an Alphabetical Catalogue made out of *Doomes-day Book*)

Book) 700 *Tenents in Capite*, besides Bishops, Abbots, Priors, and Great Church-men, that held all the Lands in *England* of him, and all others that had any Estates, held of them by mean Tenure; and therefore it seems not unreasonable to think, that they should be bound by the Acts of those of whom they held their Estates. And out of these *Tenents in Capite*, 'tis highly probable (if not without doubt) that the two Knights were at first chosen by the other *Tenents in Capite*, in every County to represent them; and two Citizens and two Burgesses out of such Cities and Boroughs as held *in Capite* of the King, which were many, and were called *Civitates & Burgi Domini*.

And though in process of time, many of these Estates and Lands became Free-Tenements, or were holden in Soccage, that is, were Freeholds, yet the Lords retained **Homage** (which in the times we write of, was no idle insignificant word) and by that, a Dominion over the Estate, whereby upon Disobedience, Treachery, Injury done to the Lord, *&c.* the Lands were forfeited to them; and although the Lands nor the Tenents of them which were termed Freeholders, were not subject to any base Services, or Servile works, yet the Lords had a great Power over these Tenents, by reason of their doing **Homage** to them (which is now Antiquated) for *Eo nomine*, their Lands were many ways liable to forfeiture.

Glanv. lib. 9. c. 1, 2, 5. Homage, what advantage to the Lord.

See more of several Great Councils in King *John*'s and *Henry* the Third's time in this Answer, F.88.B.99,139,140,141. wherein the Bishops, Earls, Barons, the *Nobiles*, *Magnates & Proceres* only, which very probably were the *Tenents in Capite*, that Treated with the King *de negotiis Regni*, *de arduis negotiis Regni*, *de statu Regni*, &c. and therefore were General Councils for all publick Business of the Kingdom.

They were Barones Majores, *that held not by any Feudal Tenure*, &c. *And particularly instanceth in the Earldom of* Chester, *that the County was given to* **Hugh Lupus**, *Tenendum sibi & haeredibus ita verè Liberè* (as *Cambden* hath it) *ad Gladium, sicut ipse Rex tenebat Angliam ad Coronam.* To hold as freely by the Sword, as the King himself held *England* by the Crown. By these words here is a Tenure created, and that *ad Gladium*, which could be no other than a Military Tenure, which was always Feudal; and this Tenure could be of no other, than either of the Conquerors Person, or of his Crown, for he gave the County to *Hugh Lupus*, and either way it was a *Tenure in Capite*, he was Sisters Son to the Conqueror, a Person of great Note amongst the *Normans*, and an expert Soldier, and had this County given him to restrain the Incursions of the *Welsh*, and inlarge his, and the Conqueror's Dominions, which was his Military-Service. In *Doomesday-Book* 'tis said, *In Cestre-scire tenet Episcopus ejusdem Civitatis de Rege quod ad suum pertinet Episcopatum. Totam Reliquam terram Comitatus tenet Hugo Comes de Rege cum suis hominibus.* In *Cheshire*, the Bishop of that City holds what belongs to his Bishoprick of the King; the whole residue of the Land of the County, Earl *Hugh* holds of the King, with his Men, who were his Military Tenents, which with his Land, he held of the King.

Ibidem.

Britan. f. 464. The Earl of *Chester* was a Feudal Tenent, and held *in Capite*.

Order. vital. fol. 522. A. Tit. *Cestreseire.*

See the Chart. in *Leicester's* Remar. on *Chesh.* fol. 109.

He was Founder of the Monastery of St. *Wertburgh* in *Chester*, and both Founded and Endowed it *Anno Dom.* 1093. *Concedente Rege Willielmo*, by the Grant and Licence of King *William*, which was *Rufus*, a manifest Token he was under his Dominion.

And that the County or Earldom of *Chester* had always a Dependence upon, and did always belong to the Crown, we have sufficient Testimony from Record, when it was annexed to the Crown, upon the death of *John Scot* Earl of *Chester*, without Issue, or Heirs-Male. A

Pat. 31. Hen. 3. m. 5. The Earldom of *Chester* always belonged to the Crown. Ord. vit. fol. 521. D. & 522. B.

Rex Baronibus, Militibus, liberis hominibus, &c. *de Com. Cestr. salutem, sciatis quod prædictum, Comitat. Cestr. una cum Castris de Gamok & Dissard & omnibus ad ea pertinentibus retinenda duximus in manu nostra, ut semper* spectantia *ad Coronam nostram*, &c.

Roger de Montgomery was made Earl of *Shrewsbury*, and *William Fitz-Osborn*, Earl of *Hereford*, by the Conqueror; upon the same terms that they should repell the Welsh, and defend the Borders against them, and being of the greatest amongst the *Normans*, and *William*'s chief Counsellors, had great Priviledges granted them in their Earldoms. B

P. 8. I do admit what our Author cites from *Selden*, and he from *Malmsbury*, *That* William Fitz-Osborn *did make a Law, that Nullus Miles pro quolicunque commisso plus septem solidis, cum in aliis Provinciis ob parvam occasiunculam in Transgressionem præcepti herilis viginti, vel viginti quinque pendantur.* No Knight, or rather Military Tenent, for any fault, should pay more than Seven shillings; whereas in other Counties, upon a small occasion, for the transgression of their Lords or Patrons Command, they paid 20 or 25 s. C

This was a Private Law to Military Men, and he that gave them Fees, might give them what private Laws he would, relating to them. 'Tis further probable, he brought this Law out of *Normandy* with him, and that it had been used in the *Seigneurie* of *Bretvil* whereof he was Lord; for he established the same Laws and Customs in *Hereford*, that were used there. D

Domesd. Cestreshire in Altiscros Hund.

P. 9. *King* Henry *Summons all the* Magnates *of* England, *ad Colloquium, because he was greatly in Debt, by reason of his Wars, he demands* Auxilium *ab omnibus generaliter*; The Story he hath out of *Mat. Paris*, who hath it thus. E

Fol. 372. n. 40. Anno Dom. 1232. 16 Hen. 3

Convenerant eo tempore, Nonas Martii ad Colloquium *apud Westmonasterium ad vocationem Regis* Magnates *Angliæ, tam Laici, quam* Prelati, *quibus Rex proposuit, quod magnis esset debitis implicatus, causa bellicæ expeditionis, quam nuper egerit in partibus Transmarinis, unde necessitate compulsus, ab omnibus generaliter* Auxilium *postulavit.* There met at that time on the *Nones*, or seventh of *March*, at a *Colloquium*, Conference or Parliament at *Westminster*, according to the Kings Summons; the Great Men of *England*, as well Lay-men as Prelates, to whom the King propounded, that being involved in great Debts, by reason of his late Transmarine Expedition, he was necessitated to require generally of them all an Aid. F

The King demands Aid to pay his Debts.

And

And then follows, as 'tis in this Author, *Quo audito Comes Cestriæ Ranulphus pro* **Magnatibus** *Regni loquens, respondet, quod* **Comites, Barones,** *ac* **Milites** *qui de eo tenebant in Capite, cum ipso erant ibi corporaliter præsentes; Et Pecuniam suam ita inaniter Effuderunt, quod inde* **Pauperes** *omnes recesserunt, unde Regi de Jure* **Auxilium** *non debebant, & sic petita Licentia* **Laici** *omnes recesserunt.* (Our Author hath left out the word **Laici** in his Book, because it manifestly destroys his Whimsey.)

P. 9, 10.

The Barons deny it.

Paris, *ibid.* lin. 50.

A

The words are thus to be Englished, which being heard (*viz.* the Kings demanding an Aid) *Ranulph* Earl of *Chester*, speaking for the Great Men of the Kingdom, answered, that the Earls, Barons, Knights, or Military-men that held of him *in Capite*, were with him corporally present in that Expedition, and had spent so much Money to no purpose, that they returned poor, and therefore of right they ought no **Aid** to the King; and so having asked leave, all the Lay-men departed. *Prælati vero Regi Respondentes, dixerunt*, as *Paris* goes on, *&c.*

B

This was a * Military **Aid**, that is **Scutage**, which was here demanded, as appears by the Earl of *Chester*'s Answer; for there is nothing more notorious than that, whenever the Military Tenents of the King, or any other Lord, were personally present in any Expedition, the Law was and the usage accordingly, that Scutage-Service was neither of right due from them, nor paid by them, but it was always levyed of such as were absent, or performed not their full Service; but Scutage was after granted as a Tax by common consent.

* *Concessa sunt Regi Auxilia Militaria de quolibet Scuto 2 Marcæ & Dimid. 5 Johannis.* 1204. *Par.* fol. 209. n. 30.

C

After this denial of Scutage, asking leave, *Laici omnes recesserunt*, all the Lay-men departed. All the Lay-men certainly were *Tenents in Capite*; else, why did they depart upon affirming there was no Aid due to the King, because they had been all personally present with him in that Expedition, for which he demanded Aid.

D

Here was the Earl of Chester *(meaning at this Colloque) this being a Summons to a General Assembly; but when the King asked Money for his Expences in the Wars, he tells him, in the name of all the* **Laity**, *that those which held of him* in Capite *(which is as much as to say, he was none of them) served them in their own Persons, and at their own Charge, therefore they begged leave to be gone, if the King had no other business with them.*

P. 10.

E

It may be noted once for all, that if our Author finds any thing done in any Council, which he conceives doth favour his Fancy, that to be sure is a General Council; but if it be against him, then 'tis but *Curia Ordinaria*, or *de More*, and this he frequently avers, without found Reason or Authority.

This he confesseth was a General Council, and all the Lay-men were only *Tenents in Capite*, as appears above; and he here confesseth likewise, that they served in their own Persons, and at their own Charges: Let the Reader therefore judge, whether *Tenents in Capite*, were not the only constituent Members of Great Councils in these times.

F

The Earl of Chester *tells the King, in the name of all the Laity, that those which held of him* in Capite *(which is as much as to say, he was none of them) as is above recited; a very ridiculous Inference*, and his Note on the Margin of this Page is as idle, where he says, without Authority the Earl of *Chester* was not to attend the King in his Wars, nor

P. 10.

nor to pay Eſcuage in lieu of Military Service, becauſe all his Tenure was to keep to the Defence of the Marches (of *Wales* he means.) For ought our Author knows, what he ſays of the Earl of *Cheſter* might be true. But this ſame very *Ranulph* was with King *John* in an Expedition into *Poictou*, in the 15th of his Reign. *Clau.* 15. *Johannis* m. 1. *Dorſ.* And in the 16th of the ſame King he paid Scutage for not being with him in an Expedition thither. *Cl.* 16 *Johannis* m. 15. *Dorſ.* In the Sixth of *Richard* the Firſt, he was in *Normandy* with King *Richard*'s Army. *Rot. Pip.* 6. *R.* 1. *Buck. & Bedf.* upon theſe *Pipe-Rolls* all the *Tenents in Capite* are entred, who performed their Service, who not, with their Scutages. Nay more than all this, he was with the King in the Expedition we are writing of into *Gaſcoign*, *Poictou*, and *Britan* in *France*; in which he told the King, the *Tenents in Capite* had conſumed their Money, *&c.* and ſtayed in thoſe Wars near a year after the King returned into *England*, when he and the Earl of *Britan* made Truce with the King of *France* for three years, on behalf of the King of *England*. Theſe are certain marks the Earls of *Cheſter* were Feudal Tenents, and not Soverain free Princes, as this Gentleman would have them to be; and if he will require more of me, I can let him have them.

This *Ranulph* was Earl of *Cheſter* above 50 years, from 27 *Hen.* 2. 1181 to the latter end of the 16. *Hen.* 3. 1232. *Dugd.* Bar. Tom. 1. fol. 41. Col. 2. fol. 45. Col. 2. Paris, fol. 367. n. 10. & f. 369. n. 30.

A

B

And he may further take notice, that though the Earl of *Cheſter*, and *Tenents in Capite* were averſe at this time to Grant the King Scutage, to pay his Debt contracted in this Expedition; yet about ſix months afterward, upon the 14th of *September* following, they granted him the 40th part of all Moveables for the payment of it.

C

Convenerunt tempeſtate eadem apud Lambeian ad **Colloquium** *in exaltatione Sanctæ Crucis, coram Rege* **Epiſcopi**, *& alii Eccleſiarum* **Prælati** *cum* **Proceribus** *Regni, ubi conceſſa eſt Regi pro debitis quibus Comiti Britanniæ tenebatur aſtrictus, quadrageſſima pars rerum mobilium, ab* **Epiſcopis, Abbatibus, Prioribus, Clericis** *&* **Laicis.**

Ibid. fol. 377. n. 50 A. D. 232. 16 *Johannis.* A Grant of a 40th part of Moveables.

D

There can be no doubt, but **Proceres** *Regni* here, were the ſame that **Magnates** *Angliæ* were in the other *Colloquium*, on the ſeventh of *March* next preceding this.

P. 15.

What he further urges for the Earls of *Cheſter*'s Independencies of the Crown, they are Priviledges which are to be found almoſt in every Royalty and Liberty in *England*, and were originally Indulgences and Grants from the Kings of *England*, by which (no man that hath any Senſe) can believe they ever intended to Ruine themſelves, or the Rights of the Crown; but rather ſuppoſed a Return of Duty and Obedience; thoſe Favours being founded upon a Reciprocation of Gratitude.

E

But there is a further irrefragable Argument in the Negative, viz. *That this* Commune Concilium *(meaning that conſtituted by King* John's *Charter) was not the* **Great Council** *of the* **Nation**. *And that is the Judgment of a whole Parliament in the* 40th *of* Edward *the Third. It appears by the Hiſtory, that King* John *had reſigned his Crown in ſuch a Council as this here; it was* **Communi Conſilio Baronum noſtrorum**; *and yet the Prelates, Dukes, Counts, Barons and Commons, upon full deliberation in Parliament, Reſolve, that the Reſignation was void,*

F

void, being contrary to the Kings Oath, in that 'twas Sans leur assent, *without their assent, and the King could not bring the Realm in Subjection,* Sans assent de eux.

No man I think will say, a whole Parliament is infallible; there have been many Acts and Clauses of Acts of Parliament, nay, the whole Proceedings of some whole Parliaments revoked by other whole Parliaments, which ought not to have been done, if a whole Parliament had, or could have been infallible; and in this very Case, the whole Parliament was doubtful of Matter of Fact, (so little knowing they were of what had been done before their times.) For in this very Roll it is said, n. 8. *per Pleusieurs Evidences apiert que si ce fust fait, ce fust fait sannz leur assent*, that is, by many Evidences it appears, that if it was done (that is, if King *John* had resigned the Crown to the Pope) it was done without their Assent, that is, without the Assent of a General Council, *Colloquium* or Parliament in those times when it was done; or which is all one, without the consent of the Nation.

See the Judgement of the Parliament in this Case, in this Answer, fol. 70. and what it was.

Our Author says, *It appears by the History, that King* John *in such a Council as was constituted by his* Magna Charta, *Resigned his Crown*, which cannot be true; for he resigned his Crown the 15th of *May*, in the 14th of his Reign, and he Granted that Great Charter of Liberties three years after, on the 15th of *June*, in the 17th of his Reign, and therefore he could not Resign it in such a Council as was constituted three years after his Resignation: and the History it self informs us otherwise.

P. 15. *Paris*, fol. 237. l. 20.

Ibid. fol. 262. l. 5.

For the King of *France* had raised the Force of his Kingdom to seize the Kingdom of *England*, it being given to him by the Pope, when he had Deposed King *John*, who Summons all the Force of his Kingdom to appear at *Dover*, in the close of *Easter*, to oppose the King of *France*, and while with a vast Army he expected his Landing, *Pandulph*, the Popes Legate, came over to King *John*, and recounting the numerous Army, Power, and Force of the King of *France*, and telling him that he boasted he had Assurance by the Charters of almost all the Great Men of *England*, of their Fidelity and Subjection to him; he so affrighted and confounded King *John*, that fearing when he came to Fight he should be left alone, or delivered to his Enemies to be destroyed by them; he acquiesced in the Perswasions of *Pandulph*, which was to gratifie the prescribed Bishops, *Canterbury*, *London*, *Ely*, *Hereford*, *Bath*, and *Lincoln*, the Prior and Monks of *Canterbury*, *Rob. Fitz-Walter*, *Eustace de Vesci*, and all the Clergy and Laity that were concerned in the Election of, and sided with *Stephan Langton* Archbishop of *Canterbury*, in all their Demands, and Resign his Crown to the Pope.

Ibid. fol. 233. n. 20, 30. Why K. *John* Resigned his Crown. Ibid. & f. 234. n. 10, 20.

Ibid. lin. 28. Ibid. lin. 37.

Ibid. lin. 45. Ibid. lin. 55. Ibid. fol. 235. lin. 5. Ibid. lin. 10.

Ibid. n. 20. Ibid. fol. 236. n. 30, 40, &c.

Indeed it is said in the Chart of Resignation, that it was done *Consilio Baronum nostrorum*, by the Counsel of his Barons. And it was executed in the House of the Templars near *Dover*, *Coram H. Dublinensi Archiepiscopo, Johanne Norwicensi Episcopo, Galfrido Filio Petri, W. Comite Sarisbertæ, W. Comite Pembroc. R. Comite Bononiæ, W. Comite Warennæ, S. Comite Winton, W. Comite Arundel, W. Comite de Ferrariis, W. Briwer, Petro Filio Herberti, Warnio Filio Geroldi, viz.* in

Ibid. lin. 52.

Ibid. fol. 237. l. 17. Where, and before whom K. *John* Resigned his Crown.

in the Preſence of two Biſhops, the Juſticiary, ſeven Earls, and three Barons, without ſubjoyning, *Et aliis Epiſcopis, Comitibus & Baronibus*; or, *Et Communitate*; or *Tota Communitate*; or any other Note that there were more preſent.

This being therefore a Military Summons, for the gathering together of an Army, and the appearance of all Men with Horſe and Arms, and other Foot-Arms, and Weapons at *Dover*, the place appointed for the Rendezvous; and the Aſſembly being an Army, and the five preſcribed Biſhops being in *France*, and the Barons that ſided with them, fled beyond Sea, or not daring to appear. And further, the Reſignation having been executed before ſo ſmall a number of Barons, without probability of more being preſent; this could not be ſuch a Council as was Conſtituted by King *John*'s Charter; that is, it was not a Parliamentary Council, or Colloquium, or General Repreſentative of the Nation, and therefore the Parliament in the Fortieth of *Edward* the Third, might well ſay, the Reſignation was made without their Aſſent; and thus falls his irrefragable Negative Argument, and comes to nothing.

Ibid. 234. l. 1, 2.

A

B

P. 20. *If no Inſtance can be ſhewn from Record or Hiſtory of* Auxilia *or Aids, raiſed by the Kings of* England, *without more general conſent, except ſuch as were raiſed of his immediate Tenents*, &c.

C

General Taxes or Aids impoſed upon the *Tenents in Capite.*

There have been ſeveral Inſtances given already in theſe Animadverſions, that Auxilia Aids have been given with no more general Conſent, than that mentioned in King *John*'s Charter; as for example, a thirteenth, fifteenth, thirtieth, fortieth part of all Moveables, and a Poll or Head-Tax impoſed upon all Subjects in general that were able to pay; in which Inſtances, the Difference between Scutage or Military Aids raiſed upon Knights Fees only, and other Aids, Taxes, or Tallages, may eaſily be diſcerned.

D

P. 25. De Term. Hillar. 39 Hen. 3. Penes Remem. Regis in Scaccario. *He ſays, the City of* London *being charged with a Tallage, the Common Council diſpute, Whether it were* Tallagium *or* Auxilium, *which is there meant of a Voluntary Aid, not due upon the account of any of their Houſes, being of the King's Demeaſn; though indeed 'tis then ſhewn that they had ſeveral times before been Talliated.*

E

P. 26. *This explains that part of the Charter,* Similí modo fiat de Auxiliis de Civitate London; *that is, as in all ſuch Caſes beſides thoſe excepted,* Eſcuage *or* Tallage *ſhould not be raiſed but by a Common Council of the Kingdom; that is, of all the Perſons concerned to pay. So for the City of* London, *unleſs the Aid were ordered in* Common Council, *wherein they, and all other Tenents in Chief were aſſembled, none ſhould be laid upon any Citizens, but by the conſent of their own Common Council; and if the Ordinance were only in general Terms, that all the King's* Demeaſns *ſhould be* Talliated, *the Proportions payable, there ſhould be agreed by the Common Council of the City, according to that Record,* 11 Hen. III. *Aſſedimus* Auxilium Efficax *in Civitate noſtra* London, *ita quod ſingulos tam Majores, quam Minores, de voluntate omnium Baronum noſtrorum Civitatis ejuſdem* per ſe *Talliavinus, & ideo providimus ſimul* Auxilium per omnes Civitates noſtras, Burgos & Dominica noſtra aſſidere.

F

This

This **per ſe Talliavimus** *was a Talliating* **per Capita**; *for when the Common Council refuſed to give ſuch a Sum in Groſs as the King demanded, then the King was put to have it Collected of every Head, that is, according to the Faculty of every Soccage Tenent of his Demeaſn, as appears by the Record,* 39 Hen. III. *meaning that cited before in his Margent.* P. 26, 27.

A What our Writer means by theſe three ſenſeleſs impertinent Paragraphs, I do not well underſtand, unleſs it be that Cities and Burghs were not Taxed, or Aſſeſſed toward any Payments, but by their own Common Councils; or that they, as part of the Common Council of the Land, Taxed themſelves. For what he ſays, that after a Tax or Aid was impoſed upon Cities and Burghs, the Inhabitants met to proportion it, ſo as it might be paid with as much equality as could be; if they would, they always did it, and this
B ſenſe which he puts upon the Record, 11 *Hen.* III. is nothing to his purpoſe. I could not find this Record.

But he having grounded theſe three Paragraphs, and ſomewhat more that follows, upon the Record which he cites in his Margin, p. 26. not mentioning any thing of the Record it ſelf, I ſhall here publiſh the whole, and give him leave to make the beſt of it.

C

D

E X *REX*

F

Term Hillar. 39 Hen. 3. Penes Remem. Regis in Scac. Pro Rege tangen. Cives Lond.

REX *Mand. Baron. quod Anno Regni ſui* xxxix. *poſt redit. ſuum de Vaſcon. poſt feſtum Sancti Hillarii apud Merton proviſum fuit* per Conſilium Regis *quod* Talliaret Dominica ſua *per Angliam pro gravibus expenſis factis dum fuit in partibus tranſmarinis. Et cum* Cives London, *vocati eſſent* coram Rege & Conſilio *ſuo apud Merton ad* Talliandum *prædictam Civitatem, venit* Radulphus Hardell *tunc* Major *Civitatis* London *cum pluribus aliis de eadem Civitate. Et* Rex *petebat ab eis* tria *mill. Merc. nomine* Tall. *& illi* habito Conſilio *cum* Concivibus *ſuis venerunt ibidem &* optulerunt *Regi* duo mill. Merc. nomine Auxilii, *& dixerunt præciſe plus non poterint dare, nec darent. Et tunc* Rex de Conſilio ſuo *miſit* Phil. Lovell Theſ. ſuum, Henric. *de* Bathon. Petrum *de* Kivall. Roger. *de* Turkelby *apud* Sanctum Martinum *ad recipiend.* finem trium mill. Merc. pro Tall. *ſi intrare* vellent *ſicut eis prius dictum fuit, & ſi* nollent *tunc* aſſident. Tall. illud in Civitate per Capita. *Et omnes prædicti ibidem venerunt. Et cum prædicti* Cives noluiſſent *intrare* finem. *prædict.* trium mill. Merc. *prædicti* Theſ. *&* alii *voluerunt* aſſidere *illud* Tall. *per* Capita *& quod* quilibet juraret catalla alterius. *Et cum ipſi* noluiſſent facere Sacrament. *nec etiam* dicere *in* fide *qua Regi tenebantur de* Catall. *ſingulorum, dicti* Theſ. *&* alii *inde receſſerunt infecto Negotio illo. Poſtea* venerunt prædicti Cives coram Rege *apud Weſtm. die Dominica proxima poſt Purif. Beatæ Mariæ Virgin. anno prædicto* & coram Conſilio ſuo, (*viz.*) R. Com. Cornub. fratre *Regis*, R. de Clare Com. Glouc. *&* Hertf. A Wynton Epiſcopo W. Wigorn. Epiſcopo & aliis de Conſilio ſuo. *Et cum* contentio *eſſet utrum hoc dici debet* Tall. *vel* Auxilium, Rex **Scrutari** *fecit rotulos ſuos utrum ipſi* **aliquid Dederunt** Regi vel anteceſſoribus ſuis nomine Tall. *Et* **Scrutatis Rotulis** *compertum eſt tam in* **rotul.** de **Scac.** *quam de* **Cancellar.** *quod tempore* Domini Johannis Patris Domini Regis *anno ejuſdem Johannis* ſexto decimo **Talliati** *fuerunt* prædict. Cives London ad duo mill. Marc. *ad relaxationem interdicti, &* anno Regni Regis ſeptimo Talliati fuer. ad mill. Libr. Et anno xxvi. dederunt mill. Libr. pro Tall. ea vice. Et anno xxix. Tall. fuerunt ad duo mill. Merc. Et anno xxxiii. ad mill. Libr. Et anno xxxvii. dederunt mill. Merc. & xx. Merc. auri pro Tall. *Poſtea in Craſtin. (ſcilicet) die Lune proxima poſt feſtum Pur. beat. Marie Virgin. venerunt prædict.* Randulphus Hardell Major & Cives & recognover. *ſe eſſe* Talliabiles *&* dederunt Regi tria mill. Merc. pro *Tall. Teſt. apud Weſtm.* xiv. *die Februarii anno, &c. Bre*. *eſt in for. Mar.*

Hen. de Bathon. &c. were Barons of the Exchequer, and Juſtices Itinerant. St. Martins Le Grand in London.

Examinat.

How it appears by this Record that the Common-Council of *London* Taxed the City, or that the City was not Taxed without their own conſent, let the Reader judge; it ſeems to be plain by the Record, that the King by the advice of his Privy-Council Taxed it.

Penes Camer. Fol. 41. a. How Taxes were Levied in Cities and Burghs in Hen. II. his Reign.

If we look back into the Reign of *Henry* the Second, we ſhall ſee how Cities and Burghs were Taxed in his Reign. *Plurimum Intereſt*, ſays the Black Book in the Exchequer, (Dedicated to that King) *ſi Donum vel Auxilium Civitatis per ſingula Capita Commorantium in eâ à Juſticiariis Conſtituatur. Vel ſi Cives ſummam aliquam, quæ prin-*

cipe

cipe digna videatur Justiciariis offerant, & ab eis suscipiatur. Dispar enim in his Duobus, Modus Coercionis est.

The Usage was then, that either the Kings Justices Taxed the Cities and Burghs, or the Citizens and Burgesses offered a Sum to the Justices, which oft times was accepted: In both these Cases there was a different way of forcing the Payment of it; and this Gift A or Aid of the Citizens, is in this Book otherwise called *Conventio*, or *Sponte Oblatum*, a Bargain, or Composition with the Justices for the Tax, or a Benevolence in stead of it.

This makes the meaning of the Record more plain, and shews the Reason why the Mayor and Citizens of *London* refused at first to pay 3000 Marks, and freely offered 2000; and why there arose a Contention whether what was demanded, was to be called an Imposition B or Voluntary Gift. And likewise shews the reason why *London*, and other Cities and Burghs, according to the Law of King *John*'s Charter, were to be Assessed and Taxed by the Common Council of the Kingdom, as well as the Kingdom it self; for doubtless the Kingdom had been Taxed by our antient Kings and their Privy-Council only, before the granting of that Law in King *John*'s Charter; otherwise what can the meaning of those words be, *Nullum Scutagium vel Auxilium ponam in Regno nostro, nisi per Commune Concilium Regni nostri*, (unless in the three excepted Cases) *&c.* If C they were not intended to restrain the King from Levying of publick Taxes, without publick Consent?

The reason of this Article in King *John*'s Charter, is Argument sufficient to prove, that the Common-Council mentioned in it, was the Great and Common-Council of the Kingdom to all intents and purposes, if there had been no other.

D

For *Henry* the Third several times after this Charter was granted, and *Edward* the First, Taxed their Demeasns through *England*, though not the whole Kingdom, by Advice and Consent of their Privy-Councils only, until the Statute *De Tallagio non Concedendo* was made 34 *Edw.* I. And both *Richard* the First and King *John* had Taxed the whole Kingdom without common assent, before the Grant of *Magna Charta*.

Rot. 11. Hen. 3. M. 19. The Record above-cited concerning London, Co. 2. Instit. Fol. 531.

E

Richard the First, Anno 1198. in the Ninth year of his Reign, *Accepit de* unâquaque Carucata *Terræ totius Angliæ* V. Solidos *de* Auxilio *ad Quos Colligendos Misit Idem Rex per singulos Comitatus Angl.* unum Clericum, *& etiam* Militem, *qui cum Vicecom. Comitatus ad quem Mittebantur, & Legalibus Militibus ad hoc electis præstito Juramento quod fideliter exequerentur Negotium Regis, fecerunt venire coram se* Senescallos Baron. *istius Comitatus, & de* qualibet Villa *Dominum vel Ballivum Villæ, & præpositum cum quatuor legal. hominibus Villæ, sive* (a) Liberis, *sive* (b) Rusticis, who were to swear how many plough Lands there were in every Town. *Et super singula Carucarum* * Wannagia *ponebant, ex* Præcepto Regis, primo duos

Hoved. f. 442. b. n. 50. f. 443. a. n. 10. 20.

(a) Tenents in Military Service, or Gentlemen.
(b) Soccagers, Possessors or Freeholders in Soccage only.

* *Carucarum Wannagia*; that is, Plough-Tilths; *Wannagia* being put for *Gainagia*, Tillage or Husbandry.

Solidos, postea 3 Solidos, *&c.* *Ad* pœnam *vero* Juratorum *qui aliquid contra Juramentum eorum Celaverint in hoc Negotio*, Statutum erat, *quod quicunque* Rusticus Convictus *fuerit de* perjurio, *daret Domino* meliorem Bovem *de Carucâ suâ, atque insuper responderet de proprio ad opus Domini Regis tantum pecuniæ quantum fuisset declaratum per suum perjurium fuisse celatum. Si vero Liber homo Convictus fuisset, esset in Misericordia Regis, & insuper refunderet sicut Rusticus.* * Libera Feoda Ecclesiarum Parochialium, *de hoc* Tallagio *Excipiebantur.* A

* *Libera feodo Ecclesiar. &c.* that is, the Knights Fees, or Manors annexed to Parochial Churches.

The full Form of setting and Levying this Tax is set forth in this Relation of *Hoveden*, who lived at the time, and was a Man of Imployment under King *Richard*; and 'tis observable, he useth both the word *Auxilium* and *Tallagium* for this very same Tax. But *Auxilium* was the most general word used for all sorts of Taxes and Impositions, before the Statute *De Tallagio non Concedendo*, as may be observed from the Records before cited. B

Paris, fol. 109. n. 20. A. D. 120.

King *John* took a seventh part of all Moveables without common assent; and another time a thirteenth, the Great Men and Clergy grumbling at it.

Rot. Cl. 33. Hen. 3. m. 14.

King *Henry* the Third Taxed his Demeasns in the 33th of his Reign. *Quia Rex* Talliari *facit* Dominica sua, *Mandatum est Vicecom.* Bucks *quod habere faciat* Philippo Basset rationabile Tallagium *de* hominibus suis *de eo Tenentibus in* Manerio *de* Wycumb, *quod aliquando fuit* Dominicum *prædecessorum Regis Regum Angliæ, Teste Rege apud Westm.* 28 *die Decemb.* C

Cl. 52 H. 3. M. 11. Dors.

In the 52d of his Reign, he Taxed his Lands beyond *Trent*, by his Escheator *John de Rygate* and *Walter de Stokes*; and in several other years. D

Ryley's Placita, Parl. f. 246. Our Antient Kings did *de Jure* Tax their Demeasns.

And this Right it self was acknowledged by the Barons in the 33th of *Edward* the First, as appears by their Petition to him in Parliament. *Ad Petitionem* Archiepiscoporum, Episcoporum, Prelatorum, Comitum, Baronum, *&* *aliorum* proborum hominum, *de Terra, petentium quod Rex concedere velit, quod possint* Talliare *antiqua* Dominica *unde sunt in* Tenancia, *desicut Rex* Dominica sua Talliabit, *ita Responsum est. Fiat ut Petitur*, &c. E

THE following Records should have been Printed the last thing of these Animadversions, and so placed last; but by mistake of the Printer, were very inconveniently printed and placed here, which interrupts the Matter, of the Animadversions. Therefore the Reader is desired to pass on to Fol. 188. and begin at these words in the letter A. It is agreed on all Hands, *&c.* which carries on the Thred and sense of the Animadversions, and the Records may be used as Referred to. F

Clauſ. 17 Joh. M. 21 Dorſ.

HÆc eſt *Conventio* inter Dominum *Johannem Regem Angliæ* ex una parte, & *Robertum filium Walteri* Mareſchallum *Exercitus Dei*, & *Sanctæ Eccleſiæ* in *Anglia*, & *Ricardum Com.* de *Clare*, *Galfridum Com. Eſſex & Glouc. Rogerum Bygod Com. Norff.* & *Suffol. h*, *saherum Com. Wynton*, *Robertum Com. Oxon. H. Com. Heref. & Barones Subſcriptos ſcilicet. W. Mariſc. juni rem*, *Euſtach. de Veſcy*, *Will. de Mobray Johannem fil. Roberti Rogerum de Monte Begon. Will. de Lanvalay* & alios *Comites* & *Barones* & *liberos homines totius Regni ex altera parte.* Videlicet, quod ipſi Com. & Barones, & alii præſcripti tenebunt Civitatem London de Ballivo Domini Regis, Salvis interim Domino Regi firmis, redditibus, & claris debitis ſuis uſque ad aſſumptionem Beatæ Mariæ, Anno, &c. decimo ſeptimo. Et Dominus Cantuarienſis Archiepiſcopus tenebit ſimiliter de Ballivo Domini Regis *Turrim London* uſque ad prædictum terminum, ſalvis Civitati London libertatibus ſuis, & liberis conſuetudinibus ſuis, & ſalvo cuilibet jure ſuo, in Cuſtodia Turris London. Et ita quod interim non ponat *Dominus Rex munitionem vel vires alias* in Civitate prædicta, vel in *Turri London.* Fiant etiam infra prædictum terminum *Sacramenta* per totam Angliam *viginti quinque Baronibus* ſicut continetur in Charta de libertatibus & ſecuritate Regno conceſſis, vel *Attornatis viginti quinque Baron.* ſicut continetur in litteris de *duodecim militibus eligendis*, ad delend. malas conſuetudines de Foreſtis & aliis. Et præterea infra eundem terminum omnia quæ Comites & Barones & alii liberi homines petunt à Domino Rege quæ ipſe dixerit eſſe reddenda vel quæ per viginti quinque Barones aut per majorem partem eorum judicata fuerint eſſe reddenda reddantur ſecundum formam prædictæ Chartæ. Et ſi hæc facta fuerint vel per Dominum Regem non ſteterit quo minus iſta facta fuerint infra prædictum terminum tum *Civitas* & *Turris London* ad eundem terminum ſtatim reddantur Domino Regi, *Salvis prædictæ Civitati libertatibus & liberis conſuetudinibus* ſuis, ſicut præſcriptum eſt. Et ſi hæc facta non fuerint, & per Dominum Regem ſteterit, quod iſta non fiant, infra prædictum terminum, Barones *tenebunt Civitatem prædictam*, & Dominus Archiepiſcopus *Turrim London*, donec prædicta compleantur. Et interim omnes ex utraque parte *recuperabunt terras Caſtra* & *villas*, quas habuerunt in initio *Gwerræ* ortæ, inter Dominum Regem, & Barones.

N. 1. Animad. p. 9.

Rot. Pat. 6. Jo. M. 2 Dorſo.

REX, &c. *Vicecom. Rotel.* &c. *Scias, quod proviſum eſt communi aſſenſu* Archiepiſcoporum, Epiſcoporum, Comitum, Baronum, & omnium fidelium *noſtrorum Angl. quod* Novem Milites *per totam Angliam invenient* Decimum Militem *bene paratum equis & armis ad defenſionem Regni noſtri, & quod illi* Novem Milites *invenient decimo Militi qualibet die* ii s. *ad liberationem ſuam, & ideo tibi præcipimus quod ſicut teipſum & omnia tua diligis, provideas quod* Decimi Milites *de Balliva tua ſint apud Lond. a die Paſch. in tres ſeptimanas bene parati equis & armis cum liberationibus ſuis ſicut prædictum eſt, parati ire in ſervitium noſtrum quo præceperimus & exiſtere in ſervitio*

N. 2.

Vide M. Paris, ſol. 99. n. 50. duo Milites tertium invenient.

vitio noſtro ad defenſionem Regni noſtri quantum opus fuerit. Proviſum eſt etiam quod ſi alienigenæ in terram noſtram venerint omnes unanimiter eis occurrunt cum forcia & armis ſine aliqua occaſione & dilatione auditis rumoribus de eorum adventu, & ſi quis **Miles** *vel* **Serviens** *vel alius* **Terram Tenens** *inventus fuerit qui ſe inde retraxerit dummodo tanta non fuerit gravatus infirmitate quod illuc venire non poſſit, ipſe & heredes ſui imperpetuum exheredebantur & feodum ſuum remanebit* **Domino** *fundi ad faciend. inde voluntatem ſuam. Ita quod exheredatus vel heredes ſui nunquam inde aliquam habeat recuperationem. Si quis vero* **Milites Servientes** *vel alii qui* **terram non habent** *inventi fuerint qui ſe ſimiliter retraxerint, ipſi & heredes ſui* **ſerdi** *fient imperpetuum reddendo ſingulis annis* iiii d. *de capitibus ſuis nec pro paupertate omittant ad prædictum negotium venire cum illud audierint quia ex quo ad exercitum venerint providebitur unde ſufficienter in ſervitio noſtro poterunt ſuſtentari. Si vero Vic. vel Ballivos vel Præpoſitos illos qui ſe retraxerunt nob. per bre. vel per ſcriptum, vel viva voce non oſtenderint dict. Vic. vel Ball. vel Præpoſit. remanebit in miſericordia noſtra* **de Vita & Membris.** *Et ideo tibi præcipimus quod ſub feſtinatione hæc omnia proclamari facias in foris per totam Ballivam tuam & in Mercatis & Nundinis & alibi & ita te de negotio illo faciendo intromittas quod ad te pro defectu tui capere non debeamus, & tu ipſe ſis apud London ad præfatum terminum vel aliquem diſcretum ex parte tua mittas & facias tunc nob. ſcire nomina decimorum Militum, Et habeas ibi hoc bre. T. meipſo apud Winton tertio die Apr.*

A B C

Any Man that reads the Record, cannot but believe the Nine Knights, and the Tenth alſo which they were to find, were all Tenents in Military Service: for beſides that, they were ſuch as had their Horſe and Arms ready, the Tenth Knight had good Pay or Wages allowed him; two Shillings a day, in the Sixth of King *John Anno Dom.* 1205. 465 years ſince, was as much then, as thirty Shillings a day now; too great an Allowance for an ordinary Freeholder. In ſmall Expeditions, where a ſmall number of Horſe were ſufficient, this courſe was taken to ſave Charges.

D

Who in caſe of Foreign Invaſion, were to appear in Arms for the Defence of the Kingdom, under pain of Forfeiture of their Lands to their Lord of whom they held, without hopes of recovery by them or their Heirs.

E

The Conſtituent parts of this Great Council mentioned in this Record are obſervable, which were the Archbiſhops, Biſhops, Earls, Barons, *& omnes fideles noſtri Angliæ*, which were the Tenents in Capite, the *omnes alii qui de nobis Tenent in Capite*, according to the great Charter granted afterwards in the Seventeenth of his Reign.

See more in the Anſwer, p. 182. 183.

F

EBOR-

EBORASCIRA.

Carta Domini *Rogeri Eboracenſis* Archiepiſcopi de Militibus ſuis fefatis.

A

Amantiſſimo Domino ſuo Henrico *Dei gratia Regi Angliæ & Duci* Normanniæ, *& Aquitanniæ, & Comiti Andegaviæ, ſuus* Rogerus *eadem gratiâ Eboraci Archiepiſcopo Apoſtolicæ ſedis Legatus, ſalutem. Præcepit* Dignitas veſtra *omnibus fidelibus veſtris* Clericis & Laicis *qui de vobis tenent* in Capite *in Eboraſcira, ut mandent vobis per literas ſuas extra ſigillum pendentes, quot Milites fefatos quiſque*

B

habet de veteri fefamento de tempore Regis Henrici *avi veſtri, de die & anno quo ipſe fuit vivus & mortuus, & quot habeat de novo fefamento fefatos, poſt mortem bonæ memoriæ avi veſtri ejuſdem. Et quot feoda Militum ſunt ſuper* **Dominium** *uniuſcujuſque, & omnium illorum nomina fefatorum, tam de novo fefamento, quam de veteri, ſint in illo brevi ſcripta, quia vultis quod ſi aliqui ibi ſunt qui nondum fecerunt vobis* **Ligantiam**, *& quorum nomina non ſunt ſcripta in* Rotulo veſtro, *qui infra* Dominicam primam *quadrageſimæ* **Ligantiam** *vobis faciant,*

C

quorum ego unus juſſioni veſtræ per omnia ſubjectus cum omni diligentia inveſtigavi in **Tenemento** *meo, prout brevitas temporis paſſa eſt, & præſenti ſcripto vobis Domino meo ſignifico.* **Imprimis**, *ergo ſciatis* Domine, *quod ſuper* **Dominium** Archiepiſcopatus Eboraci *nullum feodum eſt Militum cum tot habemus* fefatos Milites, *per quos acquietavimus omne ſervitium quod vobis debemus, ſicut & præceſſores noſtri fecerunt, & plures etiam habemus, quam vobis debeamus ſicut ex præſenti ſubſcripto, cognoſcere poteritis,* Anteceſſores *enim noſtri, non*

D

pro neceſſitate ſervitii quod debent, ſet quia cognatis, *& ſervientibus ſuis providere volebant, plures quam debebant Regi feodaverunt.*

E

E lib. rubro in Scaccario.

F

Nomina

Nomina autem Fefatorum de Tempore Regis Henrici *hæc sunt.*

WIllielmus Comes Albemarlie Tenet Feodum trium Militum. A

Henricus de Laci duos Milites.

Rogerus de Molbrai quartam partem Militis.

Herebertus filius Hereberti tres Milites.

Gilebertus filius Nigelli duos Milites. B

Paganus de Landa tres Milites.

Malgerus filius Hugonis unum Militem.

Richardus filius Hugonis unum Militem.

Willielmus de Bella-aqua unum Militem.

Robertus Morin duos Milites. C

Gilebertus filius Herberti duos Milites.

Hugo de Muſcham duos Milites.

Walter de Danecurt duos Milites.

Robertus Manſel unum Militem.

Robertus filius Wiard dimidium Militis. D

Petrus de Periton dimidium Militis.

Hugo de Verli quatuor Milites.

Willielmus Chokerel unum Militem.

Thomas de Everinham duos Milites & dimidium. E

Simon Wahart unum Militem.

Radulphus de Novewica dimidium Militis.

Robertus Poher dimidium Militis.

Walter de Denton dimidiam partem Militis.

Robertus filius Hugonis quartam partem Militis. F

Willielmus de Lubbehou dimidium Militis.

Alexander de Nuvebi quatuor partes dimidii Militis.

Herebertus de Merkinton quartam partem Militis.

Petrus

Petrus de Belingee unum Militem.

Oliverus Angevinus unum Militem.

Willielmus de Panton unum Militem.

Thomas filius Auberti quartam partem Militis.

A Aliza de Moleſcroft quartam partem Militis.

Thomas filius Hervei unum Militem.

Benedictus de Sculetot octavam partem Militis.

Bernardus de Cotingeham quartam partem Militis.

Leuredus decimam tertiam partem Militis.

B Johannes de Melſa octavam partem Militis.

Johannes quartam partem Militis.

Serlo de Pouel quartam partem Militis.

Poſt mortem vero Regis Henrici *Fefati ſunt.*

C

Petrus Pincerna de feodo dimidii Militis.

Petrus Camerarius de viceſima parte Militis.

Galfridus de Burton de Duodecima parte Militis.

Gervaſius de Bretton de tertia parte Militis.

D *Et cum Domine ex hiis ſunt quidam a quibus plus ſervitii exhigo quam ipſi modo faciant, alii vero detinent; quædam quæ ad* Wenſam *Archiepiſcopi &* Dominium, *& non ad ipſos pertinere dicuntur,* Rogerus *ſupplicat ne in ſcripto iſto mihi vel ſucceſſoribus meis nocere poſſit, quo minus jus Eccleſiæ recuperare poſſimus vel retinere valeat Dominus meus, & præter prædictos Milites.*

Turſtanus de Lethampton feodum dimidii Militis.

E Gilebertus de Mineres tertiam partem Militis.

Werri de Marinis tertiam partem Militis.

Willielmus de Scuras dimidiam partem Militis.

Willielmus de Palefrei unum Militem.

F Willielmus de Bella-aqua & Richardus de Crokton quartam partem Militis.

HERTFORDSCIRA.

Carta Roberti *de Valoniis*, *de Baronia* Roberti *de Valoniis*.

A

ISTI ſunt Milites qui fuerunt antiquitus ſefati tempore Henrici Regis Avi Domini noſtri Regis Scilicet.

Richardus de Caln, ſex Milites & dimidium.

Agnes de Montepinceon, quinque Milites.

B

Radulphus de Daling, duos Milites.

Philippus de Snaring, tertiam partem unius Militis.

Galfridus de Snaring, dimidium Militem.

Willielmus de Boſco, octavam partem unius Militis.

C

Adam filius Aluredi, dimidium Militis.

Henricus frater Abbatis, de Sancto Edmundo dimidium Militem.

Matthæus de Francaterra, duos Milites.

Robertus filius Jocelini, unum Militem.

D

Humfridus de Beringeham, unum Militem.

Robertus de Haia, unum Militem.

Radulphus de Latton, unum Militem, & quartam partem unius Militis.

Ambroſius unum Militem, & octavam partem unius Militis.

Wimerus le Fae, dimidium Militis.

E

Godefridus de Tiwing, dimidium Militis.

Brien de Tiweng, dimidium Militem.

Willielmus de Mandavill, unum Militem.

Galfridus de Haia, unum Militem.

F

Willielmus de Boxa, unum Militem.

Robertus filius Radulphi, unum Militem.

Radulphus de Ouvill, dimidium Militis.

Robertus de Inſula dimidium Militis.

Monachi

Monachi Theofordiæ, dimidium Militem.

Osbertus de Thaiden, dimidium Militem.

Summa Militum antiquitùs Fefatorum tempore Henrici *Regis, avi Domini Regis, triginta Milites & tertia pars unius Militis. Et de iſtis prædictis* Galfridus de Valoniis, *tenet unum Militem & octavam partem Militis.*

De Dominicis terris de eadem Baronia, iſti ſubſcripti feofati ſunt, poſt tempus Henrici *Regis avi Domini Regis per* Petrum de Valoniis *fratrem* Roberti *Primogenitum, ſcilicet.*

Adam filius Aluredi, unum Militem.

Willielmus de Boſco, unum Militem.

Walterus de Nevil, unum Militem.

Galfridus de Valoniis, dimidium Militis.

Gundrea, quæ fuit uxor Petri de Valoniis, unum Militem, in vita ſua.

Summa novorum Fefatorum, quatuor Milites & dimidium.

Et de iſtis novis Galfridus de Valoniis tenet duos Milites & dimidium.

Carta Albani de Hairun.

Domino ſuo excellentiſſimo Henrico *Regi* Angliæ Albanus de Hairun, *veſtræ excellentiæ notifico quod ego in* Hertfordſcira *feodum unius Militis de* **veteri** *fefamento, de vobis principaliter teneo, & quod de* **novo** *fefamento nichil habeo, nec Militem Feofatum aliquem habeo. Valete.*

He performed the Service himſelf.

Carta Matthæi de Gerardi-villa.

Matthæus de Gerardi *villa, tenet* in Capite *de Domino Rege Feodum unius Militis de* **veteri** *fefamento & nullum habet Militem Fefamentum, nec habet aliquid de* **novo.**

He performed the Service himſelf.

Carta Willielmi filii Roberti.

Kariſſimo Domino ſuo Henrico *Regi* Angliæ, Willielmus *filius* Roberti, *Salutem. Sciatis quod de vobis teneo feodum unius Militis* **pauperrimum,** *nec alium in eo feodavi, quia vix mihi ſufficit, & ſic tenuit pater meus. Valete.*

By theſe Records the meaning of *Vetus & Novum Feoffamentum* is very apparent, that it was called ſo in reſpect of time only, and not in reſpect of the Original Feudataries, or their Sub-Feudataries, or *Tenens in Capite*, and Tenents by Meaſn Tenure in Military Service.

By them alſo may be diſcovered the import of the Kings Writ iſſued to his *Tenents in Capite*, and the End or Deſign of it. If any Man receives not ſatisfaction from theſe, and that other Record in theſe Animadverſions, he may ſee an hundred more in the Red Book in the Exchequer. A

It is agreed on all hands, that the **ordinary Curia** was *held thrice a year, at* Chriſtmaſs, Eaſter, *and* Whitſontide, *and in the time of* Will. 1. *the Places were as certain on* Chriſtmaſs *at* Gloceſter, *on* Eaſter *at* Wincheſter, *on* Whitſunday *at* Weſtminſter. *While they were held at the accuſtomed places, there was no need of Summons; they that were to come* ratione Tenuræ *might well come* de More; *afterward they removed from place to place, the King made the Court where-ever he was pleaſed to hold it, and indeed when ever; but then it could not be that* **Curia de more**, *if it were at a different time or place, then there was no need of Summons, if there were ſummoned at any time more than the ordinary Members of the Curia. If this was on the day of the Curia, there was an union of the Great Council and the Curia, if on a different day, there was a Great Council by it ſelf, yet the Members of the Curia were a part thereof.* B C

Notwithſtanding, he ſays it is agreed on all hands, the ordinary *Curia* was held thrice a year; I never heard of any one of this opinion but himſelf; he would make the Great Councils held at theſe times he mentions, and the Great Confluence of Nobility then to the Kings Court, to be the Kings ordinary Court, for the diſpatch of ordinary Buſineſs, and Controverſies between the King and his Subjects, or between Man and Man. D

I will not deny, but often Petitions might be put up, and Complaints made to them about private Matters, ſuch as always have been to the Houſe of Lords, and many more in antient times, than have been for a Century or two of years, and that they did determine, and paſs Judgment in thoſe Caſes; but that they were therefore the Kings ordinary Court, I think no body will ſay, but ſuch as never read antient Hiſtory or Lawyers, or at leaſt, never intended to underſtand them. E

Lib. 1. c. 4. The Kings ordinary Court, what it was.

A very brief Deſcription of the Kings antient ordinary Court, we have in the Black-Book in the Exchequer, written in the time of *Henry* the Second, by an Officer of that Court, *Habet enim hoc commune*, (meaning the Exchequer,) *cum ipſa Domini Regis Curia, in qua ipſe in propria perſona ſua, Jura decernit, quod nec Recordationi, nec ſententiæ in eo latæ licet alicui contradicere.* It hath this common (Writing of the Exchequer) with the Kings Court it ſelf, in which he in his own proper Perſon Decrees Law; in that it is not lawful for any one to contradict what is Recorded there, or a Sentence paſſed in it. F

Of

Of this Court *Bracton* says, *Habet Rex unam propriam Curiam sicut aulam Regiam & Justiciarios capitales, qui proprias causas Regis terminant, & aliorum omnium per Querelam vel per Privilegium sive Libertatem, ut si sit aliquis, qui implacitari debeat nisi coram ipso Domino Rege*; The King hath one proper Court, even as his Royal Palace, and Capital Justices, who determine his proper Causes, and the Causes of others by Plaint, Priviledge, or Liberty; as when a man ought not to be impleaded but before the King himself. And in another place, *Item Justiciariorum quidam sunt Capitales, Generales, perpetui & Majores, à latere Regis residentes, qui omnium aliorum Corrigere tenentur injurias & errores.* Also of Justices, there are some Capital, General, Perpetual, and of greater note, always present with the King, who are bound to correct the Errors and Wrongs of others. *Fleta*, another antient Lawyer writes thus, *Habet etiam Rex Curiam suam, & Justiciarios suos tam Milites quam Clericos locum suum tenentes in Anglia coram quibus & non alibi* **nisi coram semetipso & Concilio suo,** *vel auditoribus specialibus falsa judicia & errores Justiciariorum evertuntur & corrigantur, ibidem etiam terminantur Brevia de Apellis & alia Brevia super actionibus criminalibus, & injuriarum contra pacem Regis illatarum impetrata, & omnia in quibus continentur,* **ubicunque tunc fuerimus in Anglia.** The King hath his Court and Justiciaries, as well Military-men as Clerks his Deputies in *England*, before whom, and not other where, *unless before himself and his Council*, or special Commissioners of *Oyer*, false Judgments, and Errors of **Justices,** are returned and corrected: and there also are determined Writs of Appeals, and others, upon criminal Actions, and Injuries against the Kings Peace, and all others, in which are contained these words, *ubicunque fuerimus in Anglia*, where ever we shall be in *England*. By *Bracton* this is called *Magna Curia*, because in a Writ of Right, if the Lords Court failed of doing Right, the Cause was transferred to the County, that the Sheriff might do Right, and so from the County to this Court, if the King would it should be there determined, upon certain proof of failer of Right in other Courts. From this Court all other great Courts in *Westminster*, but the Exchequer, were derived.

Lib. 3. c. 7. n. 1.

Ibid. cit. n. 2.

Lib. 2. c. 2. n. 5.

Lib. 1. c. 7. n. 7.

For concerning this Court, 'tis that *(a) Britton* in the Person of King *Edward* the First, (by whose Order he wrote his Book) says, *En primes en droit nous Mesmes & de nostre Court avons issint ordyne, que pur ceo, que nous ne suffisons mye en* **nostre propre Persone,** *á* **Oyer & Terminer** *toutes Quereles del people avaunt dit, avons party nostre charge ex pleusieurs parties sicome icy est ordine.* First of all, in right of our selves and of our Court, we have so ordained. And for that we are not sufficient in our own proper Person, to hear and determine in all Plaints of our People aforesaid; we have divided our Charge into many parts, as is there ordained. And then proceeds, *Nous voluns que nostre Jurisdiction soit sur Toutes jurisdictions en nostre Royalme*, &c. We Will that our own Jurisdiction be Superior to all Jurisdictions of our Realm; so that in all Felonies, Trespasses, Contracts, and in all other Actions Personal or Real; we have Power to give, or cause to be given, such Judgments as they will bear, or do appertain to them, **(without other Process)** whersoever we know the direct right, as **Judge.**

(a) P. 1.

This

This was the **Curia Regis ordinaria** *ubi-cunque fuerit in Anglia*, but was no **Magnum Commune**, or **Generale Concilium** *Regni*; which nevertheleſs, without derogation to it, in reſpect of Time and Place; if without Summons, there was a great and full appearance of the Great Barons and *Tenents in Capite*, at the Kings Court at *Chriſtmaſs*, *Eaſter*, and *Whitſuntide*, might be called *Curia ordinaria*, or *Ex More*. But if it was held at any other time, or at thoſe times by Summons, it was not to be called an ordinary Court or *Colloquium* in reſpect of Time: And in truth, the Kings ordinary ſetled and eſtabliſhed Court was a different thing from the Confluence of Barons and *Tenents in Capite* at thoſe three great Feaſts, which were ſet and appointed times for Great and General Councils, if there were an appearance ſufficient, and any publick Buſineſs to diſpatch. But by this Charter it was provided, that there ſhould always go forth Summons, and the cauſe of the Summons to be expreſſed in it, which needed not have been provided for, if there had been but one Cauſe, for which they were to be ſummoned, as our Author avers. A B

To make good his Aſſertion, that the *Tenents in Capite* only made a *Curia de More*, or the Kings ordinary Court; and that there were more than thoſe in the Great Councils, he produceth many Inſtances in ſeveral Kings Reigns. C

P. 39. *About the fifth year of* William *the Firſt, as* Mr. Selden *ſuppoſes, was held the Council at* **Pinenden**-Heath *in* Kent, *to determine the difference between* **Odo Biſhop** *of* **Bayeux**, *Earl of* Kent, *and Archbiſhop* Lanfranc; *if this were a* Curia de More, *then 'tis evident, that more than Tenents in Chief, nay, all Proprietors Aſſembled then of courſe, even at the* Curia; *for the Probi Homines of ſeveral Counties were there; but it appears, it was upon the Kings Summons to all the Free-holders of* **Kent**, *and of ſome adjacent Counties.* D

Eadmer, Hiſtor. fol. 9. P. 40. *Præcepit Rex Quatinus adunatis prioribus & probis viris non ſolum de Comitatu Cantiæ, ſed & de aliis Comitatibus Angliæ querelæ Lanfranci in medium ducerentur, Examinarentur, determinarentur.*

Ibidem. Our Author Tranſcribes no further than *Fecit*, the whole as I have tranſcribed it, makes it clear he underſtood not *Eadmer*, as it will preſently appear. P. 40. *Diſpoſitio itaque apud Pinenden principum Conventu Goffridus Epiſcopus Conſtantienſis*, viz. *Eâ Tempeſtate prædives in Anglia vice Regis Lanfranco, Juſtitiam de ſuis Querelis ſtrenuiſſime juſſus facere, fecit, Lanfrancus enim valida ratione, ſubnixus, ex communi omnium aſtipulatione, & judicio, ibi cuncta Recuperavit, quæ oſtenſa ſunt antiquitus ad jura Eccleſiæ Chriſti Cantuarienſis pertinuiſſe, tam in Terris quam in diverſis Conſuetudinibus.* E

Here all the Probi homines, *are by variation of the phraſe, Conventus Principum; a Biſhop was Preſident, and pronounced the Judgment, but it was, as 'tis ſaid afterwards*, Ex Communi omnium aſtipulatione. F

P. 41. *Here matter of ordinary Juſtice was determined before, more than the* ordinary Curia.

This

This looks very like a General Council of the whole Nation; to be sure 'twas more than a Curia *of the Kings Tenents and Officers, and is more than a County Court.*

Yet in the nature of a County Court, it being several Counties united, and so was adunatio Conciliorum, *though not of the Council of the whole Nation. An antient* Ms. *makes this chiefly a Court of the County* A *of* Kent. Ibidem.

Præcepit Rex Comitatum totum absque morâ considere & homines Comitatus omnes Francigenas & præcipue Anglos in antiquis legibus & consuetudinibus peritos in unum convenire.

But then it adds, & alii aliorum Comitatuum Homines, and confirms what *Eadmerus* says;

B

The Kings Commissioners were to pronounce the Judgment; in the Kings name or stead; So the Bishop of Constance *did right to* Lanfranc. *The Inquest upon their Oaths found the Matter of Fact; the Judges stated it to the People, and delivered their Judgment, to which the* Primores *and* Probi Homines *assented: For 'twas* Ex communi omnium astipulatione: *This agrees with what* Bracton *says of the Laws passed in the Great Council of the Nation.* De Consilio, & consensu C Magnatum, & Reipublicæ sponsione. P. 44, 45.

A true Account of this Meeting at *Pinnedene*, will demolish our Author's groundless Notion of it, and his perverse Interpretation of *Eadmer*. Most, if not all the Bishopricks and Abbies in *England*, were disseized of many of their Lands and Customs by the *Normans*, upon the Conqueror's coming in; upon Archbishop *Lanfranc*'s Application to him, with whom he advised in many of his Affairs, and the Mediation of other Great Men, he granted a General Writ for the Restitution of whatsoever had been taken from the Bishopricks and Abbies all the Kingdom over, The Form was as followeth,

D

W. *Dei Gratia Rex Anglorum, L. Archiepiscopo Cantuar. &* G. *Episcopo Constantiarum, &* R. *Comiti de Ou, &* R. *Filio Comitis* Gil *&* H. *de Monte-forte, suisque Aliis Proceribus Regni Angl. Salutem. Summonete Vicecomites meos ex præcepto meo, & ex parte mea eis dicite, ut reddant Episcopatibus meis, & Abbatiis totum Dominium omnesque dominicas Terras quas de Dominio Episcopatuum meorum, & Abbatiarum Episcopi mei & Abbates eis vel lenitate, vel timore vel Cupiditate dederunt, vel habere consenserunt, vel ipsi violentia sua inde abstraxerunt, & quod hactenus injuste possederunt de Dominio Ecclesiarum mearum, & nisi reddiderint, sicut eos ex parte mea summonebitis, vos ipsos velint nolint constringite reddere. Quod si quilibet alius, vel aliquis vestrum, quibus hanc Justitiam imposui, ejusdem Querelæ fuerit, reddat similiter* F *quod de Dominio Episcopatuum vel Abbatiarum mearum habuit, ne propter illud quod inde aliquis vestrum habebit, minus exerceat super meos Vicecomites, vel alios quicunque Teneant Dominium Ecclesiarum mearum, quod præcipio.* Some Gavelk. Append. f. 191. The General Charter of *William* the Conqueror for Restitution of the Lands taken from Bishopricks, &c.

William,

These were all Normans, and the Temporal Men, great Barons under *William. Vid. Dugd.* Baron.

William, by the Grace of God, King of the Engliſh, to *Lanfranc* Archbiſhop of *Canterbury*, and *Goisfrid* or *Galfrid* Biſhop of *Conſtance* in *Normandy*, and *Robert* Earl of *Ou*, and *Richard* the Son of Earl *Gilbert*, and *Hugh Montfort*, Greeting; Summon ye my Sheriffs by my Precept, and on my behalf Command them, that they reſtore to my Biſhopricks and Abbies, their whole Demain (or perhaps rather all their Lordſhips) and all their Demain Lands, which my Biſhops and Abbats, by Fear or Eaſineſs granted away, and conſented they ſhould enjoy them; or that they by violence took away, and what they as yet unjuſtly poſſeſs of the Demain or Poſſeſſions of my Churches; and unleſs they ſhall reſtore them, according as you ſhall on my behalf give them notice, you may then conſtrain them to reſtore them, whether they will or not; and if any other, or any of you, to whom I have committed the doing of Juſtice in this Matter, ſhall be obnoxious to the ſame Accuſation or Complaint; let him reſtore likewiſe the Poſſeſſions of my Biſhopricks and Abbies, leſt for that reaſon any of you prove remiſs towards ſuch as hold any Poſſeſſions or Lands of my Churches. A B

This General Writ was the Ground, upon which the Biſhops and Abbats proceeded for recovering their Lands; and beſides thoſe named in it, all his Great Men of the Kingdom of *England* were made Commiſſioners by it; who (as many of them as upon this occaſion at any time thought fit to meet) directed their Precept to the Sheriff, and he to the Suitors to the County Court, which were all * Tenents in Military Service (except Barons) and were bound to appear there, under great Penalties, both in the *Saxon* and *Norman* times. C

*See the Anſwer, fol. 18. c. & Gloſſ. Title *Liberi homines*, p. 27.

In Tryals of *Novel Diſſeiſin*, and for the Poſſeſſion of Lands, Cuſtoms, Services, &c. The Juries at the time of the Conqueſt, and in ſeveral of the Kings Reigns next ſucceeding, were impannelled out of the ſame Town and Neighborhood, of ſuch as did know the Land, and things in queſtion, and who had been poſſeſſed of it, and for what time. And to this purpoſe in an Aſſize, if *none* of the *Jurors* knew *the right it ſelf, or truth of the Matter*, and did teſtifie ſo much to the Court upon Oath, Recourſe was then had to others, until ſuch were found, who did know the Truth; but if ſome did know the Truth, and others not, thoſe that knew it not were put by, and others called into the Court, until twelve at the leaſt ſhould be found to agree therein. And for this purpoſe it was, that all Suitors to the Hundred and County-Court, were bound to appear there, under great Penalties, that there might be a Jury of ſuch as knew whoſe the Land was. D E

Grand Cuſtom. f. 93. a. c 69. de Jurours, & f. 113. b. c. 93. de brief de Novell Diſſaiſine Glanv. l. 2. c. 17

In the Longobard or Lumbard Laws, and the *Capitularies* of *Charles* and *Ludovicus*, and in other old *German* Laws, (and from *Germany*, both *Normans* and *Saxons* received theirs) we have almoſt the ſame Account of Jurors, and they are there called *Teſtes*; and often in *Domeſday-Book* it is thus found, *Teſtatur Hundreda*, *Teſte Hundreda*; the Hundred witneſſeth, that ſuch Land is ſuch a mans, or by witneſs of the Hundred, ſuch Land is ſuch a mans; See the Claims in *Yorkſhire*, *Lincolnſhire*, and *Suffolk*, at the end of that Book. F

And

A And in as many Counties and Shires, as the Church of *Canterbury* had Lands, of which it had been Diſſeiſed, the Suitors to the County-Court, where ſuch Lands lay, were by their ſeveral Sheriffs, ſummoned to appear at *Pinenden-Heath* in *Kent* (now *Pikenden-Heath* near *Aylesford.*) To give Teſtimony whether the Lands which **Lanfranc** claimed in their Counties, belonged to the Archbiſhoprick, or to **Odo** Earl of *Kent*; and it was a plain County-Court, held before Extraordinary Commiſſioners, Conſtituted by King *William.*

The Mannors and Lands in Controverſie, being five and twenty Mannors, *&c.* lay in *Kent*, *Surrey*, *London*, *Middleſex*, *Buckinghamſhire*, *Oxfordſhire*, *Eſſex*, and *Suffolk*, though above two parts in three of them, lay in *Kent* only.

Text Roff cited by *Seld.* not in *Eadmer.* fol. 198.

B And the *Primores*, and *Probi viri*, not only of the County of *Kent*, but of other Counties of *England* were theſe Jurors, which conſiſted of the Great Military Tenents that were not Barons, and the leſs, which were the *Probi viri*, for it can be no ways probable, that the ordinary Free-men, which made the greateſt number, and were all bound to their good behaviour, could be the *Probi*, and *Legales homines*, which ſerved upon Juries.

See *Liberi Homines* in the *Gloſſary.*

C To make what is here ſaid more clear, we will take two of his own Inſtances concerning the Abby of *Ely*, the Abbat whereof was at this time ingaged upon the Foundation of this general *Warrant* from the Conqueror, to recover the Lands that Abbey had been Diſſeiſed of.

P. 41, 42.

D *Willielmus Anglorum Rex omnibus Fidelibus ſuis, & Vicecomitibus in quorum Vicecomitatibus Abbatia de Hely terras habet, ſalutem. Præcipio Abbatia de Hely habeat omnes conſuetudines ſuas*, &c. *has inquam habeat, ſicut habuit die qua Rex Edwardus, fuit vivus & Mortuus, & ſicut mea juſſione dirationatæ ſunt apud Keneteford, per plures ſcyras ante meos* **Barones**, *viz.*

Galfridum Conſtantienſem Epiſcopum & **Balwinum** *Abbatem*, & **Petrum** *de* **Valoniis**, & *Picotum Vicecomitem*, & *Tehehen de* **Helion**, & **Hugonem** *de* **Holden**, & **Gocelinum** *de Norwicum & plures alios, Teſte* **Rogero Bigot.**

E *William*, King of *England*, To all his Feudataries and Sheriffs, in whoſe Sherifdoms the Abby of *Ely* hath Lands, Greeting. I Command that the Abbey of *Ely* have all its Cuſtoms, *&c.* Thoſe I ſay let it have, as it had them the day in which King *Edward* was alive and dead; and as by my Command they were proved to belong to it, at *Kentford* by many Shires, (That is by the Military Tenents, or Suitors to the County-Court of many Shires) Before my Barons, That is to ſay,

'Tis moſt probable this Writ of Poſſeſſion was directed to his Feudataries, or Norman Subjects, becauſe they had only poſſeſſed themſelves of the Biſhoprick and Abby-Lands. Theſe were all Normans and *Tenents in Capite.*

F **Galfrid Biſhop** of **Conſtance**, **Baldwin** the Abbat, **Peter** *de* **Valoniis**, **Picot** the Sheriff, **Cebel** *de* **Helion**, **Hugh** *de* **Holden**, **Gocelin** *de* **Norwico**, and many others, witneſs **Roger Bigod.**

His Second Inſtance which I make uſe of.

The Conquerors Writ of Right and Poſſeſſion joyned in one.

Willielmus Rex Anglorum Lanfranco *Archiepiſcopo, &* Rogero *Comiti* Moritonio *&* Galfrido *Conſtantienſi Epiſcopo, ſalutem. Mando vobis, & præcipio ut iterum faciatis omnes ſcyras quæ inter-fuerunt placito habito de terris Eccleſiæ de Hely antequam mea Conjux in Normaniam noviſſime veniret. Cum quibus etiam ſint de Baronibus meis qui competenter adeſſe poterint, & prædicto placito interfuerunt, & qui Terras ejuſdem Eccleſiæ tenent. Quibus in unum Congregatis, Eligantur plures de illis Anglis qui ſciunt quomodo Terræ jacebant prefatæ Eccleſiæ die qua Rex Edwardus obiit, & quod inde dixerint ibidem jurando teſtentur. Quo facto reſtituantur Eccleſiæ Terræ quæ in Dominico ſuo erant,* on the day of the death of King *Edward*, &c. A

William King of *England* to Archbiſhop *Lanfranc*, *Roger* Earl of *Moreton*, and *Geoffrey* Biſhop of *Conſtance*, Greeting, I Command you, that again you cauſe to be Aſſembled, the Shires **which were preſent**, at the Plea or Mote held, concerning the Lands of the Church of *Ely*, before my Wife laſt came into *Normandy*. B

With whom alſo may be preſent as many of my **Barons**, as well there can, who were preſent at the ſaid Plea, and do hold the Lands of the ſaid Church, who being Aſſembled, may * chooſe many of ſuch Engliſh, as know how the Lands belonged to the ſaid Church on the day of King *Edward*'s death, and what they ſhall then ſay, let them teſtifie upon Oath, which being done, let the Lands be reſtored to the Church, of which it was poſſeſſed of, the day of King *Edward*'s death, *&c.* C

*This is a Confirmation of what is found in *Glanvil*, and the Grand. Cuſt. That Juries were impanelled of ſuch that know the right of the thing in queſtion, which in this caſe could be none but Engliſh.

This being premiſed concerning Tryals for Lands upon Writs of *Novel Diſſeiſin* (where Tenents or Poſſeſſors of Lands had been lately diſſeiſed) in general, and concerning the ſame Tryals or Writs brought, and Recoveries made of their Lands, by the Church of *Ely* in particular; we will ſee whether our Author underſtood the words of *Eadmer* or not: He ſays, D

Fol. 9. n. 43.

*

a.

Præcepit Rex, quatenus adunatis primoribus & probis viris non ſolum de Comitatu Cantiæ, *ſed & de aliis Comitatibus Angliæ, Querelæ Lanfranci Ducerentur, Examinarentur, Determinarentur, diſpoſito itaque apud Pinnedene * Principum conventu,* Godfridus *Epiſcopus Conſtantienſis, Vice Regis, Lanfranco Juſtitiam de ſuis Querelis facere juſſus, fecit. Lanfrancus enim validâ ratione ſubnixus, ex communi omnium aſtipulatione & Judicio, ibi cuncta recuperavit quæ oſtenſa ſunt* (a) *antiquitus ad jura Eccleſiæ Chriſti Cantuarienſis pertinuiſſe tam in terris quam in diverſis conſuetudinibus.* E

The King Commanded, that the Chief, and Honeſt Men, not only of *Kent*, but of *(b)* other Counties of *England*, being called F

* Thoſe which *Eadmer* and *Text. Roffen* do call *Principes*, are in the Conquerors General Writs, and in *Ely* Caſe, called *Proceres & Barones.* (*a*) That is, *Die qua obiit Rex Edwardus*, as in *Ely* Caſe, and the Abby of *Ramſey*'s Caſe, *Spelm. Gloſſar. verbo Hundred*, and many others. (*b*) Where the Church of *Canterbury* had Lands, as in the Caſe of the Church of *Ely*.

together,

together, the Plaints of *Lanfranc* ſhould be Propounded, Examined, and Determined. Therefore *(Diſpoſitio apud Pinnedene Principum Conventu)* The *(c)* Barons, Kings Commiſſioners or Court being ſet at *Pinnedene*, *Geoffrey* Biſhop of *Conſtance* in the Kings ſtead, did *Lanfranc* Juſtice concerning his Demands, as he was Commanded. For *Lanfranc* ſupported by ſtrong Reaſon, by the common Suffrage and Judgment of all of them *(id eſt,* of the Princes or Barons*)* Recorded all things which were made * appear to have been the right of *Chriſt-Church* in *Canterbury*, as well Lands as Cuſtoms.

C.

* By the Teſtimony of the *Primores & Probi Homines*, or *per plures Scyras, ante meas Barones.* As above in the Caſe of the Abby of *Ely.*

Let any ſober knowing Man conſider this Relation of *Eadmer*, and think with himſelf whether he can from thence collect, and ſay with our Author, that *Probi Homines* are by variation of the Phraſe, *Conventus Principum*: That this Meeting at *Pinnedene* (or County-Court, upon an extraordinary Precept, directed to the Suitors of many Counties, to appear before ſpecial Commiſſioners*)* looks very like a General Council of the whole Nation; or that it was more than a Court of the Kings Tenents and Officers, and more than a County-Court. Or how it was *adunatio conciliorum*, an uniting of Councils, when as this whole Aſſembly can no ways claim the Title of a Council. Or Laſtly, That the Judgment which was pronounced in the Kings name, by *Geofrey* Biſhop of *Conſtance*, with the aſſent of all the other Princes, Barons, or Kings Commiſſioners, was by the common aſtipulation of all the Primores and Probi Homines, and that without their conſent it had not been Authentick, as he inſinuates, but without all colour of Reaſon.

For the contrary is evident from the words of *Eadmer* as above, and is made yet more apparent from the Account we have of this *Placitum* or *Mote* in *Textus Roffenſis*, cited by *Selden*, *Hujus Placiti multis Teſtibus, multiſque rationibus determinatum finem poſtquam Rex audiverit, laudavit, laudans cum Conſenſu omnium principum ſuorum Confirmavit, &c.* After the King heard this Plea was determined *(a)* by many Witneſſes, and many Reaſons, he approved what was done, and confirmed it by the conſent of all his Princes or Barons, that is, by a General Council or Parliament of that time.

Not. in *Eadm.* fol. 199. n. 40.

The King and Great Council confirm the Judgment given at *Pinnedene.*

(a) Which were the Jurors or *Primores*, or *Probi Homines.*

But if no Judicious Perſon can ſay he hath rightly deduced theſe his Aſſertions from the Story; it will be hard to judge whether his Ignorance or Confidence is the greater: However, he is ſomewhat more modeſt than Mr. *Petit*, who ſays this Judgment was given, **and tells us,** *Eadmer* reports it to have been given, *Aſtipulatione totius Regni*, in his Right of the Commons Aſſerted, p. 46.

Eadmer hath nothing more of this matter but in this place, and the next Paragraph, where are no ſuch words. P. 46.

The Parties aſſembled at the (b) **Council** *of* **Pinnedene**, were the Primores and Probi Viri, of the Counties concerned, which anſwer to the Proceres & Fideles Regni, in the *Union* of all the *Counties in Parliament, as in the* 42 Hen. 3. *which in another Record are branched out into,* Hauz Homes, & Prodes Homes, & du Comun de noſtre Reaume. *That is,* as the *Statute* of the *Staple has it, the*

(b) It was no Council, ſee above. Rot. Pat. 42. H. 3. M. 4.

(c) The Barons, Princes, or Kings Commiſſioners, were *Geofrey* Biſhop of *Conſtance*, *Rich. de Tunebrigge*, *Hugo de Monteforti*, *Ws. de Arces*. *Haymo Vicecomes*, and many others of the Kings Barons. *Seld. Not. in Eadm.* fol. 119. n. 10. from *Text. Roff.*

Prelates, Dukes, Earls, Barons, the great Men of the Counties, Grands des County's, as the French, and the Commons of the Cities and Burghs.

How far the *Primores* and *Probi Homines* aſſembled at *Pinnedene*, anſwered to the *Proceres & Fideles Regni*, ſee before what hath been ſaid of that Meeting.

The French Record he cites to prove it, 42 *Hen.* 3. was a Commiſſion, by which in purſuance of the *Oxford* (c) Proviſions, the King was forced to appoint Twenty four Perſons which were to order the State of the Realm, though the Record runs thus, *Henr. par la Grace Dieu Rei Dengl.* &c. *à touz ceus*, &c. *ſachiez que pur le profit de noſtr. Reaume, & à Requeſt de nos* **Hauz Homes**, & **Prodes Homes**, & **du Comun** *de noſtr. Reaume,* **Otrepaines** *que vinte quatre de nos Homes*, &c. A

See this Record at the end of the Animadverſions.

(a) See the Anſwer, p. 199. Pat. 42. H. 3. M. 4. Have granted that 24 of our Men, *&c.*

B

The Twenty Four by the ſame Record had Power to chooſe Four who had Authority to chooſe the Kings Council: *Les queus vinte quatre deſus nomez Eſturens quatre, as queus quatre il Donerent lour poer de Eſtire noſtr. Conſeil des* **Prodes Homes** *de noſtre terre*, &c. Which Twenty Four under-named ſhall chooſe **Four**, to whom they ſhall give their **Power** to chooſe our **Council** of the **Wiſe** Men of our Land, *&c.*

C

Hauz in this Record is the ſame that *Haults*, Men of *High Degree*, *Proceres*, *Magnates*, &c. and were the great Barons. And **Prodes Homes** for *Prudes Homes*, (for ſo I have ſeen it written, though I cannot call to mind the Record) *Viri Prudentes*, or *Sapientes*, *Wiſe*, *Diſcreet Men*, not *Probi Homines*, as our Author would have it, for certainly the ordinary ſort of Freeholders, which he means by the *Probi Homines*, or the Jurors which are called *Probi* and *Legales Homines* in our ancient Lawyers, Records and Hiſtories, were never Members of the Kings Council, which according to this Record was to be, **des Prodes Homes** *de noſtr. Terre*, of the Wiſe Men of the Kingdom, and theſe **Hauz Homes** and **Prodes Homes**, were no other than *Viri Nobiles ac diſcreti*, as *Paris* calls them, ſuch as were ſent to the Council of *Lyons* in the Name of the whole Univerſity of the Kingdom, about the Papal Exactions, *&c.* who were Earl **Roger Bigod**, **John Fitz-Geofry**, **William de Cantelup**, **Phillip Baſſet**, **Ralph Fitz-Nicholas**, all great Barons, and Mr. **William Poweric** then Secretary. D

See Anſwer, p. 149.

E

See *Communitas Regni* in the Gloſſary.

Et du Comun de noſtr. Reaume, what the **Communitas Regni**, the *Community of the Kingdom* was in theſe times; ſee Anſwer from F. 75. D. to F. 85. and from F. 103. A. to F. 111. C.

But becauſe this Record is cited in other late Writers, as in Mr. *Petit*'s Appendix to the Antient Rights of the Commons, *&c.* p. 169. in the Margin, and in the Reflections upon *Antidotum Britannicum*, printed with the Lord *Hollis* his Remains, p. 226. To prove that the Commons, as at this day, were a conſtituent part of the Parliament: I will grant what they would have, that is, that *Prodes Homes* are to be Tranſlated **Probi Homines**, and yet ſhall ſhew, that theſe *Probi Homines* in this Record were **Barons**, and that the F

Appellation

Appellation of *Probi Homines* was sometimes given to Bishops, Earls, and Barons; and this will appear by comparing this Record with others about the same Affair.

The King at this time imprudently had accepted of the Popes Gift, of the Kingdom of *Sicily* and *Apulia*, to his Second Son *Edmund*, and all the Money he could any ways procure, he sent to the Pope, to A beat *Conrade* out of that Kingdom, and also became bound to the Pope in vast Sums of Money. The Welsh likewise at this time invaded *England*, committing great Rapine and Slaughter, and by these means the King was reduced to great Streights; out of which, that he might extricate himself, he called a Parliament or great Council at *London* in the *Quindene* of *Easter*. But the Barons taking advantage of his necessities, (with fair Promises, which they never performed) brought him into greater Difficulties, as the following B Record will shew us. *Paris.* fol. 963. n. 40. Mat Westm. f. 358. n. 20.

Rex omnibus, &c. *cum pro negotiis nostris arduis nos & Regnum nostrum contingentibus*, **Proceres** & **Fideles** *Regni nostri ad nos* London, *in Quindena Paschæ proxime præterita faceremus convocari, & cum de negotiis supradictis, & maxime de prosecutione negotii* **Sicilie**, *diligenter cum eisdem tractaremus, ac ipsi nobis Responderunt, quod si statum Regni nostri per Consilium Fidelium nostrorum, ratificandum Duxerimus, &* Dominus **Papa** *conditiones circa factum* **Sicilie** *appositas melioravit, per quod negotium illud prosequi possemus cum effectu, ipsi diligentiam fideliter apponent erga* **Communitatem** *Regni nostri, quod nobis Commune Auxilium ad hoc præstetur, Nos eis concessimus, quod infra festum Natalis Domini proximo futurum, per Consilium* **Proborum** & **Fidelium** *hominum nostrorum Regni* Angliæ, *una cum Consilio Legati Domini* **Pape**, *si in* Angliam *medio tempore venerit, Statum Regni nostri ordinabimus, & Ordinationem illam, firmiter observabimus, & ad hoc fideliter observandum, supponimus nos Cohercioni Domini* **Pape**, *ut nos ad hoc per censuram Ecclesiasticam prout expedire viderit valeat actare*, &c. *Dat. apud* Westminster 2. *die* Maii. Rot. Pat. 42. Hen. 3. m. 10.

By this shew only of giving the King an Aid, the Barons obtained from him this Grant, but by a serious, and as he thought, a real Promise, to assist him with Money, they drew from him a more particular Grant of his Crown and Government, leaving out the E Popes Legate, lest he should not come in due time to serve their purpose, or if he should come, that they might not have any Contest with, or be over-ruled by him.

Rex omnibus, &c. *Noveritis nos concessisse*, **Proceribus** & **Magnatibus** *Regni nostri Juramento in animam meam per* **Robertum Walerand** *præstito quod per* 12 *Fideles de Consilio nostro jam Electos, & per alios* 12 *Fideles nostros Electos ex parte* **Procerum** *ipsorum, qui apud* **Oxoniam** *à festo Pentecostes proximè futuro, in unum mensem convenient,* **ordinetur**, **rectificetur**, & **reformetur** *status Regni nostri, secundum quod melius viderint expedire, ad* **Honorem Dei**, & *ad fidem nostram, ac* **Regni** *nostri* **utilitatem**, & *si forte aliqui Electorum ex parte nostra absentes fuerint, liceat illis qui præsentes fuerint, alios substituere loco absentium, & similiter fiat ex parte prædictorum* **Procerum** & **Fidelium** *nostrorum, & quicquid per* **viginti quatuor** *utrinque Electos* Pat. 42. Hen. 3. M. 10. Pro Rege & Baronagio.

Electos & ſuper hoc juratos vel Majorem partem eorum circa hoc ordinatum fuerit inviolabiter obſervabimus. Volentes & firmiter ex nunc præcipientes quod ab omnibus obſervetur eorum ordinatio, & ſecuritatem omnimodam quam ipſi vel major pars **eorum** *ad hujus rei obſervationem, providerint, vel providerit* **eis** *ſine qualibet contradictione plene faciemus & fieri procurabimus*, &c. **Promiſerunt** *etiam nobis* **Comites**, *&* **Barones**, **Memorati**, *quod expletis negotiis ſuperius tactis, bona fide laborabunt ad hoc, quod* **auxilium** *nobis commune præſtetur à* **Communitate** *Regni noſtri. In cujus*, &c. *Dat. ut ſupra 2. die* Maii. A

This was the Famous Parliament or *Colloquium*, that met at *Oxford* in the 42th of *Henry* the Third, on St. *Barnaby*'s day, *Anno Domini* 1258. in which year *Eaſter*-day was *March* the 24th, and *Whit-Sunday May* the 12th, ſo that *Barnaby*-day was juſt a Month after *Whitſun-Tueſday*, and agrees for time with this Record. B

Both theſe Records are of the ſame Date; In the firſt it's ſaid, the King called the *Proceres* and *Fideles Regni ſui* to *London*, fifteen days after *Eaſter*, and granted to them that the State of his Kingdom ſhould be ordered *Per Conſilium Proborum & Fidelium hominum ſuorum Regni Angliæ*, together with the advice of the Pope's Legate. In the ſecond 'tis ſaid he granted to the *Proceres* and *Magnates Regni ſui*. That Twelve * *Fideles* then choſen out of his Council, and Twelve other *Fideles* to be choſen on behalf of, or by the *Proceres*, or Great Men which were to meet at *Oxford* a month after *Whit-Sunday*, ſhould reform and rectifie the State of the Kingdom according as they ſhould think fit, and what the *Proceres* and *Magnates* were, that ſhould chooſe the Twelve *Fideles*, we are told in the cloſe of the Record, where they are called Earls and Barons, *Promiſerunt etiam nobis* **Comites** *&* **Barones** *Memorati*, &c. which words muſt refer to the *Proceres* and *Magnates* mentioned in the beginning of the Record, there being no other words they can be referred to, for the words *Comites* and *Barones* are only mentioned in this one place of the Record, and no where elſe. C D

* Confiding men.

From hence we may note, that the *Proceres* in one Record, and *Proceres* and *Magnates* in t'other, were the ſame Perſons, and that they were Earls and Barons. That the *Probi* and *Fideles* in one Record, which at the requeſt or inſtance of thoſe Earls and Barons, were to order the Kingdom, and the Twelve *Fideles* that were choſen by the Earls and Barons in t'other Record were Perſons of the ſame Order, Rank, and Degree: That the Twelve choſen by the King, were of his Council, and in all probability the Twelve choſen by the Earls and Barons, were ſome of themſelves, or other very Eminent Perſons of their own Inclinations. And laſtly, we may note from theſe Records, that none of the Four and twenty were ordinary Men, common or ordinary Freeholders or Plebeians, as theſe Writers would have it. *Henry de Wengham* Dean of St. *Martins Le Grand, London*, and then Keeper of the Great Seal was one of them, and *John Manſel* Provoſt of *Beverlay*, and Treaſurer of the Church of *York*, who had lately been Keeper of the ſame Seal, was another, which perhaps might not be Barons, yet were Eminent Clerks, or Lawyers in thoſe times, and men of Great Abilities; and for theſe reaſons reckoned amongſt the *Magnates*; and to this very E F

Rot. Pat. 42. Hen. 3. m. 6.

very purpose and meaning, *Mat. Westminster* delivers the sum of these two Records.

Anno igitur Regni Henrici *Tertii* 42. *Convenientibus* Oxoniæ **Militibus Baronibus & Prælatis**, *Edictis publicè evocatis, cum armatorum potenti & innumera Comitiva, præsentibus Domino Rege, & Domino* Edwardo, *primogenito ejusdem, communi deliberatione, imo Deliratione, taliter ordinarunt: Ut quia idem Regnum Reformatione multiplici sui status egebat, Dictus Rex pro se* **Duodecim** *Personas de Regno, & Tota Terræ* **Communitas** *alias* **Duodecim** *providerent, qui Regia potestate suffulti totius Regni curam susciperent,* &c. And a little after he hath this Passage, after a Narrative of some of their Actions. *Videntes ergo* **Proceres** *antedicti viginti quatuor, ad Regis & Regni regimen sic* **Electi**, *tot multiplicatis capitibus, Monarchia sublata, Commune Dissidium jugiter invalescere, & confusionis illius, quæ Diebus istis evenit, periculum imminere, omnes præter* **Quinque** *subscriptos, scilicet* **Episcopum Wigornien sem**, *& duos* **Comites** *prædictos,* (the Earls of *Glouceſter* and *Leiceſter*) *Hugonem* **Dispensatorem**, *and Petrum de* **Montefort**, *ad Dissolvendum Ordinationes & Provisiones hujusmodi provisas, & ad reducendum Regem in statum debitum consenserunt.*

Mat. West. fol. 391. lin. 2.

Ibid. lin. 40.

And now we come to the French Record, which these Writers cite so often by Parcels, which in Time and Date follows these before noted.

Henr. par la Grace Deu Roi D'engleterre, &c. *a touz ceus,* &c. *Sachiez qe pur le profit de nostre Reaume, e a la* **Requeste** *de nos* **Hauz Homes** *e* **Prodes Homes** *e du* **Comun** *de nostre Reaume* Otreyames *qe vint quatre de nos homes eusent poer qe qe tout ce qil ordeneirent del Estat de nostre Reaume fust ferm e estable, e ce fermes juzzer en nostre Alme e Donames de ce nos Lettres Overtes, & de ce meesmes jurra Edward nostre fieuz einzne e de ce dona ces Lettres Overtes, Les queus vint quatre desus nomez eslurent quatre as queus quatre il Donerent lour poer de eslire nostre Conseil des* **Prodes Homes** *de nostre Terre, Le quel Conseil nos avuns promis & promettuns craire al adrescement e al amendement de toutes les Besoignes qe aperteignent á nos, e a nostre Reaume, & nos voluns qe lavant Dit Conceil ou la greinure partie puissent eslire* **Prode Home** *ou* **Prodes Homes** *qe saient en * lui de celi ou de ceus qui defauderunt, & nos averun ferm e estable quanqe lavant dit Conseil ou la greinure partie fera. E Comandum fermement, qe touz nos feaus e nos homes ausi laient e saient tenuz fermement garder touz les establissemenz les queus il ferunt al honur de Deu e nostre foi e au profit de nostre Reaume. Et en Tesmoignance de ceste chose nos avuns fet mettre nostre seel a set presente Lettre. Ceste chose feu fete a Lundr. landemaigne prochein apres la* **Gaule haut** *lan de nostre corounement quarante secund. ceste lettre est Doublee e livere al Cunte le Maresal per le Roi e sun Conseil.*

Here we see the *Hauz Homes*, and *Prodes Homes*, were none of the Community of the Kingdom, and therefore no ordinary Tenants in Capite.

* Lieu.

Though I cannot tell what is here meant by *Gaule Haut*, and so cannot certainly make out the Date of this Record, yet it was Dated some time after the other, for here it is said, That the 24 were to choose Four, which no doubt were to be **Prodes Homes**, well-affected, or well-inclined, and those Four were to choose the Kings Council, **des prodes Homes**, of the well-affected or well-inclined; and

and the Four at this time choſen, were **John Wanſel** aforeſaid, **Roger** *le* **Bigod** Earl of *Norfolk*, and Marſhal of *England*, **Hugh** *le* **Bigod** Juſticiary of *England*, choſen by the Barons, and Brother to *Roger* Earl-Marſhal, and **John** *de* **Pleſſetis** Earl of *Warwick*, as appears by *Rot. Pat.* 42 *Hen.* 3. M. 6. *Teſte Rege apud Oxoniam.* 22 *Junii.* So that this Record was dated after *Barnaby*-day, and probably about or after the 22th of *June*.

Here 'tis ſaid, that at the Requeſt of the *Hauz Homes e Prodes Homes e Comun de noſtre Reaume*, and the Community of the Realm, the King granted that 24 of his men, ſhould have Power, that whatever they ordered concerning the State of the Realm, ſhould be firm and ſtable, as it had been firmly ſworn on his behalf. Seeing therefore that theſe *Hauz Homes* and *Prodes Homes*, who with the Community of the Realm, requeſted the King, *&c.* were none of that Community, as is clear from the very words of this Record, they muſt be, and were the **Proceres** and **Magnates**, the Earls and Barons mentioned in the laſt Record, to whom the King had granted the ſame thing. *Rex omnibus*, &c. *Noveritis nos conceſſiſſe* **Proceribus** *&* **Magnatibus** *Regni noſtri, Juramento in animam meam per* **Robertum Walerand** *præſtito, quod per* 12 **Fideles** *de Conſilio noſtro jam electos, & per alios* 12 **Fideles** *noſtros electos ex parte* **Procerum**, &c. as before dated *May* the ſecond.

In the Charter Roll of the 49th of *Henry* the Third, Membrane the Fourth and Fifth, there is a French Record, and a Latin Record about the ſame matter, the Peace (as it is there called) concluded after the Battel of *Lewes*, in which *Hauz Homes*, and *Prodes Homes* are expreſſed by Prelates, Earls, and Barons, and ſuch of thoſe as were of the Faction againſt the King, have the Epithet of *Prodes* adjoyned to them.

And further to prove that the Biſhops, Earls, and Barons, and other great men, were ſometimes called *Probi Homines* in the plain and true meaning of the words, and that they were not always appropriated to ordinary men, (and perhaps but ſeldom attributed to them in antient times) take this Record.

Ryley's Placita Parliament. f. 246. as before

Ad Petitionem, Archiepiſcoporum, Epiſcoporum, Prælatorum, Comitum, Baronum, & **aliorum proborum hominum**, (which words imply the Archbiſhops, Biſhops, Prelates, Earls, and Barons to be ſuch) *de terra petentium, quod Rex concedere velit, quod poſſint Talliare* **antiqua Dominica**, *unde ſunt in* **Tenancia**, *deſicut Rex* **Dominica** *ſua Talliavit. Ita Reſponſum eſt.* **Fiat** *ut petitur.* Theſe *alii Probi Homines* that petitioned the King for leave to Tax their Tenents, of the antient Demeaſns they held of him, were no Plebeians or ordinary People, but ſuch as held Mannors, and conſiderable Lordſhips of him, to them and their Heirs, under ſmall Rents and Services, for all Services, and ſuch commonly, as they or their Anceſtors had merited well of our antient Kings, for the Service they had done, and received thoſe Lands on that account.

P. 47.

That Freeholders had the Appellation of Milites, *is evident by many Records.*

I will not deny that *Milites* were Freeholders, but they were *Liberè Tenentes in servitio Militari*, Freeholders in Military or Knights Service, and not the ordinary Common Freeholders, as at this day which he intends. See *Gloss.* in the words *Milites*, and *Liberi Homines*, an Answer, p. 150.

Milites and common Freeholders not the same.

A *In the Fourth of this King (meaning* William *the First) the Controversie between the Archbishop of* York *and the Bishop of* Worcester *was determined at* Pedreda, *before the King, Archbishop* Lanfranc, *the Bishops, Abbats, Earls,* & Primatibus totius Angliæ; *this Mr.* Selden *rightly calls a Parliament; which is easily to be gathered from the large and comprehensive signification of Primates.* Hoveden's *words are, Wulstani Querela, in Concilio in loco qui vocatur Pedreda Celebrato, coram Rege ac Doroberniæ Archiepiscopo Lanfranco & Episcopis, Abbatibus, Comitibus & Primatibus totius Angliæ, est terminata.*

P. 54.

R. Hoveden, fol. 453.

Fol. 260. a. n. Lon. Edit.

B

It's enough this Gentleman thinks, to say only that Primates was a word of a large and comprehensive signification to prove that there were more than *Tenents in Capite* in this Great Council, which he owns to be a Parliament in his own sense, and says, *Selden* rightly calls it so. In which place of *Selden* he might easily have observed his opinion of the signification of *Primates*; under which he tells us, the Temporal Barons being not Earls were comprehended, although C sometimes the same word, as *Proceres* or *Magnates* comprehend both them and the rest also: that is, both the Spiritual and Temporal Barons.

Tit. Hon. f. 580

Many such Instances as this he brings of great Councils in the Reigns of *William* the First, and Second, *Henry* the First, King *Stephen*, *Henry* the Second, *Richard* the First, to prove there were more than *Tenents in Capite*, nay ordinary Freeholders in them: But in the D words he himself cites them in, the *Primates*, *Primores*, *Proceres*, *Magnates*, and *Nobiles* are always the constituent parts of them; or the *Clerus* and *Populus*; which when he evinceth them to be, and those words to signifie the Common Freeholders, as at this day, or that ever there was an *Adunation* (as he calls it) of all the Freeholders in every County in a General Council, I will be of his opinion.

From p. 54. to p. 219.

For the meaning of *Clerus* & *Populus*, see Answer from p. 56. to p. 63

But it lies upon me to shew when and how the Curia Regis *went off, Communia placita non sequantur Curiam nostram sed teneantur in aliquo loco certo. Hereby the Administration was taken from the* ordinary Curia, *and fixed at the Courts in* Westminster.

E

P. 191. Magna Charta c. 11.

The Kings ordinary Court, or at least a great part of it, remains still, *viz.* the Kings-Bench, and went not off by reason of this Article in *Magna Charta*, and he would have found a better reason in *Britton*, how the Kings ordinary Court went off, or rather was F branched out, and divided into several Courts and Jurisdictions, because the King was not sufficient to hear and determine all the Complaints of his People, *&c.* as we have said before, in shewing what the Kings ordinary Court in ancient time was. Nor could this Clause in *Magna Charta* be any ways prejudicial, or abate the Power and Jurisdiction of the Common Council of the Kingdom, mentioned in King *John*'s Charter, (he making that all along in his

P. 1. a. & *Bracton*, Fol. 108. a.

Paris, fol. 257. n. 30.

Diſcourſe the *Curia Ordinaria)* for thoſe words, *Communia platita non ſequantur Curiam noſtram, ſed teneantur in aliquo loco certo*, are in King *John*'s *Magna Charta*, within five lines after the proviſion made for the Summons of the Great Barons, and all other *Tenents in Capite*, which were only the Conſtituent parts of that Great Council: So that if this Council ſummoned as there is directed, were the *Curia Regis Ordinaria*, and went off by reaſon of this Clauſe, it certainly went off before it began; which could not be: And 'tis manifeſtly proved in the Anſwer, that after the Granting of this Charter by King *John*, there were many General and Great Councils, or *Colloquiums* ſummoned by Edict according to the Form there preſcribed. A

And if any Man deſires to know the period of theſe Great Councils, and how they went off, let him read the Hiſtorical Account of the Parliament 49th of *Henry* the Third, and of ſome other Parliaments afterwards, in the Anſwer, * *&c.* too long to be inſerted here. B

* F. 130. D. &c.

From p. 193. to p. 219. this Author labors much, to invalidate the Right of the Biſhops to Vote in Capital Cauſes, and thinks he hath wholly defeated the ſolid and learned Treatiſe, called, *The Grand Queſtion*, &c. But if he thinks fit to read over that Book once more, and to obſerve it well, and compare it with what he hath ſaid, he will find it anticipated and anſwered; and if he hath not a mighty ſtrong Fancy of his own Abilities, muſt be aſhamed of his Impertinent Rapſody. There is nothing ſaid worthy the notice of this learned Author, and the Controverſie is Foreign to my Deſign. C

P. 219.

I ſhall give (ſaith the Author of this new Face) one plain Inſtance of a Great Council, and another of an ordinary Court in this Kings Reign (meaning Hen. 2.) D

Benedictus Abbas, p. 72. in Bib. *Cotton. Jul.* A xi.

Circa Feſtum Sancti Pauli venit Dominus Rex uſq; Northampton & magnum ibi celebravit concilium de ſtatutis Regni ſui coram Epiſcopis, Comitibus & Barinibus Terræ, & coram eis, per Concilium Comitum & Baronum, Militum & Hominum ſuorum hanc ſubſcriptam aſſiſam Fecit, &c.

This was more than an ordinary Curia, *and there being the* Barones Terræ, *the* Milites & Homines ſui, *are not to be taken for his Feudal Tenents, but his Liege People.* E

Milites & Homines ſui, were the Kings Feudal Tenents.

Notwithſtanding the *Barones Terræ* are mentioned in this Great Council, why are not the *Milites & Homines ſui* the Kings Feudal Tenents? In King *John*'s Charter 'tis ſaid, that all the Great Barons (which properly were *Barones Regni, Barones Angliæ*, or *Barones Terræ*) ſhould have particular Summons, *& omnes alii qui de nobis Tenent in Capite*; all others that held of the King in Chief, which here are expreſſed by *Milites & Homines ſui*, ſhould have general Summons by the Sheriffs of Counties. So that this is a plain Inſtance of a Great Council, according to King *John*'s Charter, and proves that to be more than an *ordinary Curia*. And further, If the *Milites & Homines ſui* were not the Kings Feudal Tenents, but his Liege-People, F

People, that is, the Kings Subjects in general, then Tradesmen, Servants, and vast numbers of others of the Kings Liege-People, were Members of this Great Council, which no Body, I think, but himself and Mr. *Petyt* will aver.

In Page 49 he says, *Fulcherus homo Vicecomitis*, was his Tenent in Knights Service; and why are not *Homines sui*, that is, *Regis*, the Kings Tenents in Knights Service in this place? that is, his *Tenents in Capite*, or Feudal Tenents; he ought to give some reason for his Confidence, before he can think to be believed.

But this *Adamantine* Forehead, in his Reflections upon *Antidotum Britannicorum*, &c. printed with the Lord *Hollis*'s Remains, *A. D.* 1682. p. 247. hath cited over again, this very place, out of *Benedictus Abbas*, as he hath cited it here, and in the same words. To prove there was a difference between the *Barones Regis*, *& Regni*, and that there were other Barons of the Kingdom than the Kings great *Tenents in Capite*; and thus Comments upon it.

I conceive the difference between *Baro Regni*, and *Regis*, is sufficiently shewn in this Authority (meaning this Citation:) Here are *Barones Terræ*, or *Regni*, and *Barones*, *Milites*, and *Homines sui*; Here either all the *Barones Regni* were *Barones Regis* or *sui*: And then his distinction between *Baro Regni* and *Baro Regis* falls to the ground, there being no difference; or else there is that very difference I stand upon, *viz.* That the *Barones Regni* were comprehensive of all sorts of Barons; the *Barones Regis* were the Kings *Tenents in Capite*, amongst which there were Knights at least; and the *Homines sui*, I take it, were his Great Officers and Justices. These made a Select Council, acting in Parliament or out of it, either in a full Body, or contracted by Agreement, as I could easily shew.

The Reflector's own words, p. 247.

These Deductions caused me to look again into this Author, and I found that in Transcribing this Passage, he had left out the very words which would have directed the Reader to the understanding of the Difference here made, by *Benedictus Abbas*, between the *Comites & Barones Terræ*, and the *Comites*, *Barones*, *Milites & Homines sui*; the true Transcript, and words of the Monk are these.

Anno 1176. (which was the 25th of *Hen.* 2.) *Circa Festum Conversionis Sancti* Pauli, *venit Dominus Rex usque* Northampton, *& Magnum ibi celebravit Concilium de Statutis Regni sui, coram* **Episcopis, & Comitibus, & Baronibus,** *Terræ* **sue**; *& coram eis,* **per Concilium Regis Henrici filii sui,** *& per Concilium* **Comitum, & Baronum, & Militum, & Hominum suorum,** *Hanc subscriptam assisam fecit*, &c.

Benedictus Abbas, p. 72. b. lin. 5. sub Effigie Julii. A. xi in Biblioth. Cotton.

King *Henry* the Second, when he had caused his Son to be Crowned, *A. D.* 1170. and caused also the Earls and Barons to do Homage, and Swear Fealty to him; (saving the Homage and Fealty they had done, and sworn to himself) he granted him the Government of the Kingdom in his Absence, and caused a new Seal to be made for him, by which he was to manage it. And it cannot be doubted, but that to make him look more like a King, he assigned

Ibid. p. 30 a.

Ibidem.

ſome Earls and Barons, Knights, and other Military-men, who atturned Tenents to him, or ſome new Earls and Barons were created, as immediate Dependents on him, and the Knights and other Military Tenents followed, and held on the Lands, Manners, and Honors that were aſſigned to maintain and ſupport his Court and Kingſhip, * and the Kings *Comites* and *Barones Terræ ſuæ*, were the Earls and Barons of his Kingdom, that held immediately of him, or were his immediate *Tenents in Capite*. A

* Or they might be called his Earls, Barons, Knights and Men, becauſe they had done Homage, and ſworn Allegiance to him.

In his Coment upon ſo much as he had tranſcribed out of the Monk, he ſays he could eaſily ſhew ſome things he only points at there; and well he may, with the Liberty he takes to leave out the moſt material words in what he cites, that direct the true meaning of an Author or Record, and then joyn the other parts of it together as he pleaſeth, and ſo makes an Authority for his own purpoſe, which without ſuch villainous Practices, could not have been produced to give the leaſt advantage to his Groundleſs, Seditious, and popular Opinions. As in this Caſe he hath left out the word **Sue**, after the word *Terræ*, which would have aſcertained what the Earls and Barons firſt mentioned were; and then after the words, *& Coram eis*, he hath left out this Sentence, and *Per Concilium Regis* Henrici *filii ſui*, before theſe words which were annexed to, and were part of it, *& Comitum, Baronum, Militum, & hominum ſuorum*; that is, King *Henry*, the Sons, Earls, Barons, Knights, and Military Tenents, mentioned in the ſecond place. If this paſſage of *Benedictus Abbas*, be good Authority, it directly proves, that the great Councils or Parlements of thoſe times, conſiſted only of the *Tenents in Capite*, or whom beſides the King was pleaſed to call, and that he might call ſuch as he pleaſed. The Aſſize made in this Great Council, were the Articles of Inquiry for the Juſtices Itinerant, or the Heads of the *Iter*. The Diviſion of the Kingdom into ſix parts, or Circuits, and appointing Juſtices to every Circuit. B C D

Roger de Hoveden, at this time one of *Henry* the Second's Clerks, repeats the conſtituent parts of this Great Council, ſomewhat otherwiſe than they are found in *Benedictus Abbas*, *An. Gratiæ* 1176. *Poſt natale Domini in Feſto converſionis Sancti* Pauli *venit Dominus Rex Pater uſq*; * Nottingham, *& ibi celebravit magnum concilium de ſtatutis Regni & coram Rege Filio ſuo, & coram* **Archiepiſcopis, Epiſcopis, Comitibus & Baronibus** *Regni ſui, Communi omnium concilio, Diviſit Regnum in ſex partes, per quarum ſingulas tres Juſticiarios itinerantes Conſtituit*, &c. In the year of Grace, 1176. after *Chriſtmaſs*, in the Feaſt of the Converſion of St. *Paul*, King *Henry* the Father, came to *Nottingham*, or *Northampton*, and held a Great Council there, concerning the Statutes of his Kingdom, before the King his Son, and before the Archbiſhops, Biſhops, Earls and Barons of his Kingdom. E

Hoved. fol 313 a.n.50.

* He miſtook *Nottingham* for *Northampton*. 'Tis probable it ſhould have been *Northampton* as in *Ben. Abbas*. King *Henry* the Second's Son, was Crowned King in his Life-time, and dyed before his Father.

The *Milites & Homines ſui*, being *Tenents in Capite*, were here comprehended in the word *Barones*, and 'tis very uſual for the *Tenents* in *Chief* to be ſtiled Barons. Hiſtories are full of Inſtances every where, and it is needleſs to produce any; of theſe conſiſted the **Baronage** of *England*, as in the Anſwer P. 146. Notwithſtanding, 'tis highly probable that the Great Barons were ever created F

by

by Ceremony, as Mr. *Elsynge* seems to have proved in his manner of holding Parliaments, from p. 28. to p. 46. and there is a notable Instance in *Hoveden* to this purpose. *Eodem Die Coronationis suæ Johannes Rex accinxit* **Willielmum Marescallum** *gladio Comitatus de* **Striguil,** *&* **Gaufridum** *filium* **Petri** *gladio Comitatus de* **Essex.** *Qui licet ante* **vocati** *essent* **Comites,** *& administrationem suorum Comitatuum habuissent, tamen non erant accincti* **Gladio** *Comitatus.* Other Ceremonies were anciently used in the Creation of Earls, Barons, *&c.* as Investiture by Robes, Delivery of Banners, Gold Rings, *&c.* but not all of them perhaps here in *England.*

Fol. 451. a. n. 40. *Anno Domini* 1199.

This Relation of *Hoveden*'s of the same Council, is a clear Explication of the other in *Benedictus Abbas*, who in all probability was Abbat of *Peterborough*, and wrote the Life of *Henry* the Second, and died before *Hoveden*, whom he mentions as one of the Kings Clerks, p. 65. *a. linea penultima.*

Pitseus.

Ralph de Diceto Dean of St. *Pauls*, *Anno Domini* 1210. a diligent searcher into the Histories and Transactions of his own and former times, doth yet more fully declare the meaning of *Benedictus Abbas*, in the Account he gives of this Great Council.

Pitseus in that year.

Rex juxta Consilium filii sui Regis coram **Episcopis, Comitibus, Baronibus, Militibus,** *&* **aliis hominibus** *suis, in hoc consentientibus, constituit Justiciarios in sex partibus Regni sui, in unaquaque tres, qui Juraverunt quod suam cuique Justitiam conservabunt. Hoc autem factum est apud Northamptunam, vii Kal. Februar:* which is the day after the Conversion of St. *Paul*, and agrees with the time of *Benedictus Abbas*; and here is certainly his meaning clearly discovered, and by the words it is evident, that only *Tenents in Capite*, and in Military-Service, were the constituent parts of this Parliament or Great Council.

Imag. Histor. Col. 588. n. 40.

This Instance of a Great Council being dispatcht, which no knowing man can think that it consisted of any other Persons than *Tenents in Capite.* I come to his second Instance concerning the *Curia Ordinaria*, or the Kings Ordinary Court.

This Instance is taken out of Sir *Henry Spelman*'s Glossary in the word *Finis*; and 'tis from the Form of a Fine Levyed in the *Ordinary Curia.*

P. 219, 220.

Hæc est finalis Conventio facta in Curia Domini Regis apud Clarendum Anno 33 Regis Hen. secundi coram Domino Rege & Johan. filio suo & aliis Baronibus & fidelibus qui tunc ibi præsentes erant, &c.

At *Clarendon* in *Wiltshire* our antient Kings had a Palace.

The words in *Spelman* are these, *Hæc est finalis Conventio, facta in Curia Domini Regis apud Clarendum anno 33 Regni Regis Hen. secundi, coram Domino Rege & Johanne filio Ejus & Ra. de Glanvil & Hubert Decan. Eborac. & Rad. Archidiac. Hereford. & Robert. de Witefield, & Roger. fil. Reinfr. & Roberto de Inglesham Archidiac. Gloecstr. & Josel. Archid.* *magistro Thoma de Bussecurn, Mich. Belet, & aliis Baronibus, & fidelibus Domini Regis qui tunc ibi præsentes erant.*

This

This is the Final Agreement made in the Court of the Lord the King at *Clarendon*, in the 33 year of the Reign of King *Henry* the Second, before the Lord the King, and *John* his Son, and *Ranulph de Glanvil*, and *Hubert* Dean of *York*, and *Ralph* Archdeacon of *Hereford*, and *Robert de Witeſield*, and *Robert Fitz-Reinfrid*, and *Robert de Ingleſham* Archdeacon of *Gloceſter*, and *Joſel* Archdeacon Mr. *Thomas de Buſſecurn*, *Mich. Belet*, and other Barons and Feudataries *of the Lord the King which were then preſent.* A

Dugd. Chron. Series, Fol. 4. Annis 26. & 33 *Hen.* 2. Ibidem.

The moſt of theſe Perſons, Archdeacons, and others, were the Kings Juſtices; and at this time his Court was whereſoever he was; The very ſame year there was a Fine Levied *in Curia Regis apud Cantuariam Die veneris prox. poſt feſtum Sancti Johannis Baptiſtæ* preſent. *Rad. Archdiac. Colceſt. Roger. fil. Reinfrid, Robert de Witefield, Mich. Belet.* The very ſame Juſtices. B

This was certainly an ordinary Court, ſuch as is deſcribed before in theſe Animadverſions, and was holden before the King and his Council, *Coram Rege & Concilio*, his Privy-Council, and that was the Reaſon of the Addition of, *& aliis Baronibus, & Fidelibus Domini Regis qui tunc ibi præſentes erant*, after the Juſtices.

But this was no ſuch *Curia*, or Common-Council of the Kingdom, as is mentioned in King *John*'s Charter, which all along he hath from the beginning of his Book, affirmed, was a *Curia Ordinaria*, for the diſpatch of *Ordinary Buſineſs* only. C

The Kings ordinary Court remained after the Common Council according to King *John*'s Charter was aboliſhed.

When this Common-Council of the Kingdom eſtabliſhed by King *John*'s Charter, ceaſed to be after the 49th of *Henry* the Third, yet the Kings Ordinary Court continued in the ſeveral Kings Reigns, in all its Branches, Diviſions, and Derivative Juriſdictions, and therefore not the ſame; for the Kings-Bench, and Common-Pleas, thoſe two parts of it which were Stationary in *Weſtminſter-Hall*, there can be no doubt made of them; and for the Court alſo which retained the Title of *Coram Rege & Concilio*, there is a notable Caſe and Record cited by Sir *Edward Coke*. D

4. Inſtitut. fol. 60.

A Suit depending before the King and Council between the Abbat of St. *Auſtins Canterbury*, and others, concerning Wrecks, *&c.* The Abbat brought his Action at Common-Law againſt the Parties, who being thereupon Arreſted and Impriſoned, the Sheriff was commanded by the Kings Writ to deliver them, and to forbear to ſerve any Proceſs againſt them, and the Reaſon there given (ſaith Sir *Edward*) is notable. E

Rot. Cl. 16. *Ric* 2. (m) 11. Dorſ.

Quia non eſt juri Conſonum, aut honeſtum, quod aliquis de hiis quæ coram nobis & Concilio noſtro in Diſcuſſione pendent, alibi inde interim placitari debeat aut apparere. That is, becauſe it is not Conſonant to right, or honeſt, that any Man ſhould be impleaded, or appear any where for any things, that are in diſpute before Us and our Council. F

What hath been ſaid in the Canvaſſing theſe two Inſtances, and what delivered before about the Kings Ordinary Court, may ſatisfie any Man concerning this Authors own Groundleſs Notion of *Curia Ordinaria*,

Ordinaria, and *Generale Concilium*, and are ſufficient to diſcover his Ignorances, in that he hath cited Records and Hiſtories, and given Inſtances directly againſt himſelf.

Rex Congregatis Epiſcopis, Comitibus, & Baronibus, Regni ſui Parlamentum habuit & tractatum. This ſays our Author was manifeſtly more than the *Curia Regis*. True, it was manifeſtly a Common-
A Council of the Kingdom, as it was afterwards eſtabliſhed by King *John*'s Charter. Here was never a Free-holder, but ſuch as held of the King in Military-Service, that is, *Tenents in Capite*.

P. 220. Note *Parlamentum* for *Colloquium*.

King John ſays in one of his Charters, he came to the Crown, Jure Hæreditario, mediante tam Cleri quam populi, unanimi conſenſu & favore.

P. 221. His Elder Brothers Son *Arthur* D. of *Brittan* was then living.

B *Congregatis Archiepiſcopis, Epiſcopis, Comitibus & Baronibus & aliis omnibus. I ſhall add what the Gentleman hath* left out, *qui hujus Coronationi intereſſe debuerant*; which relates to the *aliis omnibus*.

Paris, fol. 197. (*n*) 20. Ibid. p. 221.

I cannot ſee to what purpoſe he uſeth theſe Citations; however, for his ſatisfaction, the Reader may ſee how King *John* came to the Crown, in the Anſwer, f. 33. A. *&c.*

C *From* London *King* John *iſſues out Summons to* William *King of* Scots, *to attend him at* Lincoln, *which Summons he was obliged to obey as one of his Tenents in Chief; nor was it the place or time of the* Curia de More, *and therefore the* Curia *and General Council was united; the King of* Scots *coming as Attendant upon the* Curia, *Convenerunt interea ad Colloquium apud Lincolniam, Rex Anglorum Johannes & Rex Scotorum Willielmus cum univerſa Nobilitate tam Cleri quam Populi utriuſque Regni undecimo Kalendas Decembris. As under the Nobility,*

P. 222.

Mat. Paris, 196. ſo cited by our Author See the Anſwer to his Supplemental or laſt Argument, who were the Nobility and Freeholders of *Scotland*.

D *the Senators of* Scotland, *were comprehended all the Freeholders at that time beyond Diſpute, 'tis probable at leaſt, that our Nobility was of the ſame Extent. And for the Probability of the Aſſembling of ſo great a Body as the Proprietors of both Kingdoms muſt have made even then, 'tis obſervable that the Meeting was without the Walls, for the City was not able to hold them. The King of* Scots *did Homage upon a Mountain*, in Conſpectu omnis populi, *before all the People, the United Body of the Freeholders of both Kingdoms.*

P. 223.

E

The words of *Mat. Paris*, from whence this Gentleman had the Story, are theſe: *Convenerunt ad Colloquium apud Lincolniam,* **Rex** *Anglorum Johannes &* **Rex** *Scotorum Willielmus, cum univerſa* **Nobilitate** *tam* **Cleri**, *quam* **Populi**, *utriuſque Regni, Undecimo Kalendas Decembris, Et eodem die Convenerunt* **ipſe** *&* **Rex** *Scotorum Extra Civitatem in* **Montem arduum**, *& ibi in Conſpectu Omnis Populi,* **Willielmus** *Rex Scotiæ fecit* **Homagium** *Regi Johanni de omni Jure ſuo; & poſtea Juravit ei Fidelitatem, ſuper Crucem Huberti Cantuarienſis Archiepiſcopi, de Vita & Membris, & honore terreno, Contra omnes homines, Coram Cunctis* **Magnatibus** *Regni. John* King of *England*, and *William* King of *Scotland*, met at a Conference at *Lincoln* with all the Nobility, as well of the Clergy as Laity, of both Kingdoms, upon the 21th of *November*; and the ſame day they met upon a ſteep Hill without the City, and there in the ſight of all the People,

Fol. 204. n. 30 40. Anno Dom. 1200. 1. *Joh.*

See the Anſwer, f. 31. B. why in this place *Populus* is to be turned *Laity*, and in other parts of it.

People, *William* King of *Scotland* did Homage to King *John* for all his Right, and afterward ſware Fealty to him upon the Croſs of *Hubert* Archbiſhop of *Canterbury*, of Life and Limb, and Terrene Honor againſt all men, before all the Great Men of the Kingdom. This is all *Paris* hath of this Story.

And he hath it from *Hoveden*, and tranſcribes his words; yet *Hoveden*'s Relation is more full and clear, and I therefore tranſcribe ſo much of it as is neceſſary, becauſe he lived alſo, and wrote at the very time, and alſo becauſe it will detect this Writers monſtrous abuſing of Hiſtory.

Hoved. f. 461. b. lin. 4. & n. 10. 20. 30.

Johannes Rex Angliæ *ſtatim poſt Coronationem ſuam miſit Philippum Dunelmenſem Epiſcopum*, &c. *John* King of *England*, ſoon after his Coronation, ſent *Philip* Biſhop of *Durham*, *Roger Bigot* Earl of *Norfolk*, *Hen. de Bohun*, Earl of *Hereford*, *David* Earl of *Huntington*, the King of *Scots* Brother, *Roger Lacy* Conſtable of *Cheſter*, *William de Veſcy*, *Robert de Roſs*, and *Rob. Fitz-Roger*, Sheriff of *Northumberland*, to **William** King of *Scots*, with Letters of ſafe Conduct, to bring him to the King of *England*, and appointed him a day to meet him at *Lincoln*, in *Craſtino Sancti Edmundi*; and then it follows within a few lines, *Undecimo Kalendas Decembris*, (which is the 21 of *November*) *feria tertia Johannes Rex Angliæ & Willielmus Rex Scotiæ Convenerunt apud Lincolniam, & in Craſtino*, viz. 10 *Kal. Decemb. feria quarta Johannes Rex Angliæ intrepidus & contra conſilium Multorum, intravit Eccleſiam Cathedralem Lincolnienſem & obtulit ſuper Altare Sancti Johannis Baptiſtæ quod eſt in novo opere* **Calicem** *aureum. Deinde eodem Die ipſe &* **Willielmus** *Rex Scotorum Convenerunt ad Colloquium extra Civitatem Lincolniæ ſuper Montem arduum, & ibi in conſpectu omnis populi,* **Willielmus** *Rex Scotorum devenit* **homo** *Johannis Regis Angliæ de jure ſuo, & juravit fidelitatem ſuper crucem Huberti Cantuarienſis Archiepiſcopi de vita & Membris, & terreno honore ſuo contra omnes homines, & de pace ſervanda ſibi & Regno ſuo, ſalvo jure ſuo;* **Teſtibus hiis.** *Huberto Cantuarienſi, Johanne Dublinienſi, Bernardo Raguenſi Archiepiſcopis.* (This laſt *Bernard*, Archbiſhop of *Raguſe* might probably be the Popes Legate) Eleven other Engliſh and Welſh Biſhops, and the Biſhop of St. *Andrews* in *Scotland*. *Geoffrey Fitz-Peter*, Earl of *Eſſex*, and Juſticiary of *England*, eight other Earls, the Prince of *Galway*, *Patrick* Earl of *Lonais*, *Griffin*, Son to *Reſe*, King of *South-Wales*, and many others of the Kingdom of *Scotland*, and before the **Barons** of *England* and *Normandy*, *Roger Conſtable* of *Cheſter*, *Euſtace de Veſcy*, and *Robert de Ros*, and fourteen others there named, *& aliis multis de Baronibus Angliæ & Normanniæ*; and many others of the Barons of *England* and *Normandy*. Theſe Biſhops, Earls and Barons, were thoſe which *Paris* calls **Magnates** *Regni*, when he ſays this great Ceremony was performed before all the Great Men of the Kingdom. *Facto itaque homagio ſuo, Willielmus Rex Scotiæ* **petiit** *à Johanne Rege Angliæ Domino ſuo totam Northumbriam, & Cumbriam, & Weſtmerland ſicut jus ſuum & hæreditatem ſuam.* Of which King *John* took time to conſider until *Whitſunday* following; all this was done on the tenth of the Calends of *December*, or the 22th of *November*, and the next Morning, (*in craſtino ſummo mane* viz. *Nono Kal. Decembris*) *William* King of Scots returned into his own Country, under the

That is the 21 of *November*.

Ibid. n. 40.

Conduct

Conduct of those that brought, or conducted him to the King of *England*.

Whoever considératively reads either of these Relations, but especially this last of *Hoveaen*, cannot but wonder at the Confidence of this Writer, who pretends to find out both an ordinary Court, and General Council in this Assembly, which was only designed to
A attest, and see the Homage of the King of *Scots* done to the King of *England*, and to make it more notorious and conspicuous, which was the reason of the Circumstance of its being performed upon a steep Hill without the City, that the People might see it done and take the more notice of it. And that this was the only Business of this Meeting 'tis certain, because we find no Summons to it, nor other Matter transacted in it.

B It is admirable how he finds out of the Relation of *Paris*, to which he confines himself (to use his own words) That under the Nobility of *Scotland* were comprehended all the Freeholders without dispute, and that 'tis probable, at least, that the Nobility of *England* was of the same Extent; That is, that all **Freeholders** were **Noblemen.** 'Tis marvelous how he finds the united Body of Freeholders of both Kingdoms at this meeting at *Lincoln*; Had it been safe for the Kingdom to have admitted so great numbers of Scots? How should
C the Nation have got rid of them? We had but a small parcel of the ordinary ones, about 34 or 35 years since, and we were forced to Swear and Covenant with them, and give them a round Sum of Money to be gone. 'Tis mighty strange, that the English Noblemen, who went to conduct the King of *Scots*, should go thither, and that he and the Body of the Freeholders of his Kingdom, some whereof must come from the furthest part of *Scotland*, should come together in *Scotland*, when the days were almost at the shortest, and
D march from thence to *Lincoln* in 44 days time; more they had not, for King *John* was Crowned at *Westminster* on the eighth of *October*, and it was after his Coronation he sent a Convoy for the King of Scots, with Letters of safe Conduct, and he came to *Lincoln* the 21 of *November*, which makes but 44 short days. All his Deductions from this Story are so far remote from Reason and Sense, that no Man but himself could ever have thought of them. These are his Coments upon, and this the Work he makes, with all the Fragments
E of Records and History he makes use of.

300000 l.

Ibid. fol. 461. a. n. 40.

And then I take it (*in the year* 1204.) *Provision was made for the Defence of the Kingdom*, (viz.) *That every nine Knights throughout the Kingdom should find a Tenth armed at all points to be ready in* Servitio nostro ad defensionem Regni quantum opus fuerit. *This to be sure, reach'd further than to the Knights, by Military Tenure, because every one that held a Knights Fee, was by his Tenure to find a Man,*
F *and consequently this would have weakened the Kingdom to abate of their Services, but it must needs have extended to all that held to the value of a Knights Fee, though not by Knights Service. This was provided* Communi assensu Archiep. Ep. Com. Baronum & omnium fidelium nostrorum Angliæ. *And so a general Land-Tax.*

P. 225.

Nine Knights throughout the Kingdom to find a Tenth.

Rot. Pat. 6. *Johannis*, M. 2. Dors.

Whether the nine Knights were Tenents in Military Service, or Freeholders in Soccage Tenure, that is, ſuch as our Common Freeholders are at this day; or whether the Money the Tenth Knight was to receive for his Wages, was raiſed by a general Land-Tax, the Record it ſelf will determine it; 'tis worth obſerving, and here Printed N. 2. This Record is here interpreted, at the common rate of this Writers Comenting.

A

In great Expeditions, a leſs number of Knights found one to do the Service at a Common Charge. *Rex* Henricus *magnam paravit Expeditionem, ita ut duo Milites de tota* Anglia *tertium invenirent, ad expugnandum* Wallenſes. The King prepared a great Expedition into *Wales*, ſo as two Knights found a third.

Mat. Paris, fol. 96. n. 50. A.D. 1257.

B

The Baronagium, *or* omnes fere Angliæ Magnates *refuſed to give a Royal Aid demanded of them, the ground of their refuſal is very remarkable.* Quod omnes tunc temporis non fuerunt juxta tenorem Magnæ Chartæ ſuæ vocati. *This ſome would render, and call King* John's *Charter, and that the Complaint was, that the Peers had not their particular Summons, according to the Tenor of that Charter. But it is* Chartæ ſuæ, *not* Chartæ Regis Johannis Patris Regis nunc. *'Tis the then King* Henry *the Third's Charter.*

P. 237.

Paris, fol. 913. n. 40. Ann. Dom. 1255 39 *Hen.* 3.

C

King *John*'s Charter, and King *Henry* the Third his Charter, will appear to be, and were the very ſame, notwithſtanding his unintelligible Reaſons to the contrary.

King *John*'s *Magna Charta* and K. *Hen.* 3. the ſame.

D

Mat. Paris relating the manner how, and upon what conſideration King *Henry* the Third, in the Ninth of his Reign, Granted his Charters; tells us, that being Sealed with the Kings Seal, they were ſent into all Counties of *England*, and that *iſtarum tenor chartarum habetur expreſſius, ubi hiſtoria agitur de Rege Johanne; Ità quod Chartæ utrorumque Regum in nullo inveniuntur diſſimiles.* That is, the Tenor of thoſe Charters may be found more expreſly in the Hiſtory of King *John*, ſo as the Charters of both Kings were not found to diſagree in any thing: and it is no impropriety of Speech of the Barons, to ſay to King *Henry*, that King *John*'s Charter was his Charter, when he had Granted it to them in the Ninth of his Reign, and confirmed it with dreadful Curſes, according to the mode of thoſe times, in the 37th of his Reign; for the ſame Hiſtorian relating this Solemn Confirmation of *Magna Charta*, ſays, *Rex bona fide, & ſine aliqua cavillatione promiſit ſe* Magnam Chartam *& omnes ejus articulos fideliter obſervaturum. Quam à multis retroactis annis, Pater ejus Rex* Johannes *tenere juravit*; the King promiſed faithfully, without any Cavil, to obſerve *Magna Charta* and all its Articles, as his Father King *John* had done many years before.

Fol. 321. n. 10, 20.

They were alike in all things.

E

F

This Confirmation was but two years before the Barons gave this Reaſon to King *Henry*, that they would not anſwer in * Parliament, or give any Aid, becauſe their Peers were abſent, not being called according to his *Magna Charta*. This ſingle Inſtance is ſufficient to prove, that the Common-Council of the Kingdom, mentioned in King *John*'s Charter, was the General Council of the Kingdom; nor need I examine his Book further, if it were not to let his Readers ſee

Paris ut ſupra. *So it is called in this place, if any ſtreſs be to be laid upon that word.

see how he hath cheated them, and abused, and wrested the Records and Histories he hath cited.

Three years after this Answer, 42 *Hen.* 3. the Barons at *Oxford* require of him, the Confirmation of King *John*'s Charter. *Ut Dominus Rex Chartam libertatum Angliæ quam Johannes Rex Pater ejus suis Anglis confecit, & confectam concessit.* Ibid. fol. 970. n. 50.

A

Quamque Idem Johannes *tenere Juravit, fideliter teneat, & observet, quamque idem Rex* Henricus *multoties concesserat & tenere Juraverat, ejusque infractores, ab omnibus* Angliæ *Episcopis, in præsentia sua, & Totius* **Baronagii**, *horribiliter fecit Excommunicari, & ipse fuit unus Excommunicantium.* Which Excommunication was performed in the 37th year of his Reign, but five years before.

B Five years after that, in the 47th of *Henry* the Third, when the differences between himself and the Barons were referred to the King of *France*; he nulled the Provisions made at *Oxford*; but said, by that he intended not altogether to abrogate King *John*'s Charter, and therefore the Earl of *Leicester*, *Sim. Montfort* would not acquiesce in the King of *France* his Judgment, because the Provisions of *Oxford*, as he said, were founded upon that Charter. Here is proof enough, that the Charters of King *John* and *Henry* the Third, were the very C same. Ibid. fol. 992. n. 10.

The Great Charter commonly attributed to *Henry* the Third, and stiled his Charter in our Statute-Books, was properly the Charter of *Edward* the First, or perhaps rather his Explication or Inlargement of that Charter of King *John* and *Henry* the Third. For we find not the Great Charter, either of that, or King *John*'s Form in any of the Rolls, until the 25th of *Edward* the First, and he had a D greater Sum of Money for confirming this Charter than *Henry* the Third had, as 'tis Recorded in the Summons to Parliament for that purpose. The Charter of K. *Edw.* 1.

Rex Vic. Ebor. Salut. quia in Relevationem omnium incolarum & populi Regni nostri Pro octava omnium honorum singulorum laicorum per totum idem Regnum, pro urgentissima nunc dicti Regni contra Gallicos necessitate levanda, concessimus pro nobis & hæredibus nostris, E confirmare, & firmiter teneri facere Magnam Chartam *de libertatibus Angliæ, &* Chartam *de libertatibus foresta.* &c. *Tibi præcipimus firmiter injungentes, quod sine dilatione aliqua duos de probioribus & Legaliori-bus Militibus,* &c. *Eligi, & eos ad Edw. filium nostrum,* &c. *venire facias,* &c. Cl. 25 *Edw.* 1. M. b. Dors. *de veniendo pro confirmatione Magnæ Chartæ.*

In this Charter then confirmed, there is no Provision made for any Summons to Great Councils or Parliaments, and the reason may F well be, because the Constitution of Great Councils or Parliaments was lately changed, from what it was in King *John*'s time, and til the 49th of *Henry* the Third, nor perhaps was it so fixed, and peremptorily resolved on at this time, what it should exactly be for the future, as to have it made an Article of the Charter, and to this conjecture the frequent Variations of Summons to Parliament in those times, do give a probable Confirmation. See the Records at the end of the Answer.

P. 244.

Page 244. *This Writer cites a Record by parcels, and beſides to make it more ſpecious to ſerve his purpoſe, he leaves out the beginning and end of it.* The whole Record is as followeth.

Rot. Cl. 38. H. 2. m. 7. & 12. The Preamble of the Writ. All this is left out by this Writer.

Rex Vic. Bed. & Bucks, Salutem. Cum Comites & Barones & cæteri Magnates Regni noſtri nobis firmiter promiſerunt, Quod erunt London *à* **Die Paſche** proxim. futur. in **tres ſeptimanas** *cum* **Equis** & **Armis** *Parati,* & bene Minuti *ad tendendum* ſine **Ulla Dilatione** *Verſus* Portſmouth, *& tranſfretand. ad nos in Vaſconiam Contra Regem Caſtell. qui terram noſtram Vaſconiæ in Manu forti in æſtate proxima futura hoſtiliter eſt ingreſſurus.* A

Et tibi præcipimus quod omnes illos de Balliva tua qui **Tenent.** 20 **Librate** *terræ* **de nobis in Capite,** *vel de aliis qui ſunt infra ætatem, & in Cuſtodia noſtra ad idem diſtringas. Tibi Diſtrictè præcipimus quod* **Præter omnes Prædictos,** venire facias Coram **Concilio noſtro** *apud Weſtmonaſterium in Quindena Paſchæ proxime futur.* **Quatuor Legales** & **Diſcretos Milites** *de Comitatibus prædictis, quod iidem Comitatus ad hoc Eligerint, vice omnium & ſingulorum Eorundem; viz.* **Duos** de uno *Comitatu &* **duos** *de alio* ad *providendum* una *Cum Militibus aliorum Comitatum, quos ad eundem diem Vocari fecimus,* **Quale Auxilium** *nobis in tanta* **neceſſitate** *impendere voluerunt. Et* **tu ipſe** *Militibus, & aliis de Comitatu prædicto* **neceſſitatem noſtram,** *& tam urgens negotium noſtrum Diligenter Exponas & ad* **competens Auxilium** *Nobis ad præſens impendend. Efficaciter inducas. Ita quod præfati quatuor Milites* **Præfato Concilio noſtro** *ad prædictum terminum Paſchæ Reſpondere poſſint ſuper prædicto auxilio pro ſingulis Comitatibus prædictorum.* B C

King *Henry*'s ſeeming Writ for two Knights explained.

This is not tranſcribed by the Writer.

Firmiter etiam tibi præcipimus, Quod omnia debita quæ nobis à retro ſunt, in Balliva tua & ſolvi debuerint ad ſcaccarium noſtrum ante Paſch. jam inſtans, habeas ad Idem ſcaccarium in Quindena prædict. Paſchæ Scientes, quid niſi prædicta debita tunc ibidem habueris, non Solum Corpus tuum arreſtari faciemus, ſet debita illa de terris & tenementis tuis levari faciemus ad Damnum tuum non modicum. Teſte A. Regina & R. Com. Cornub. apud Windeſore xi *die Febr.* D

What he ſpeaks to any purpoſe upon this Record, is by asking this Queſtion, If the Tenents in chief made the Common Council of the Kingdom till the 49th of *Henry* the Third, and had a Power to Tax the reſt of the Nation, *de Alto & Baſſo ad Meram Voluntatem ſuam,* Why this Summons for a Repreſentative of the Counties? E

I anſwer, The Hiſtory of this time, and the occaſion of this Writ, will give any reaſonable Man ſatisfaction why they were ſummoned.

Paris in *additam.* fol. 189. n. 50. *Hen.* 3. wanted Money in *Gaſcoigne.*

King *Henry* being at this time in *Gaſcony,* and in great diſtreſs for want of Money, he wrote to his Queen and his Brother *Richard* Earl of *Cornwall,* who had the Government of the Nation in his abſence, to aſſemble the Archbiſhops, Biſhops, Earls and Barons of the Kingdom of *England,* and to repreſent to them his Condition, and the intended Expedition of the King of *Caſtile* into *Gaſcony* againſt him; which they did about the latter end of *January* 1254. in the 38th year of his Reign; and did declare to them what he had directed F

directed them. The Barons would part with no Money, as not believing the King of *Caſtile* would invade *Gaſcony*, and thinking that Relation but an Artifice to procure a Tax of them. They were drawn into that ſuſpition by the Inſinuations of *Simon Montfort*, who not long before had reſigned the Government of that Country to the King, who was indebted to him for it in a great Sum of Money. However, though they did not aſſiſt the King according to his Expectation, yet the Earls and Barons promiſed, that if the King of *Caſtile* did make War upon him, they would be at *London* three Weeks after *Eaſter*, ready to march to *Portſmouth*, and there take Ship, and come powerfully to his Aſſiſtance againſt him. Some of the Biſhops alſo promiſed they would perſonally come to him with conſiderable force; and others of them and the Abbots to ſupply him with Money againſt the ſaid King of *Caſtile*, if by force he attempted any thing againſt him.

Ibid. Hiſt. f. 887 n. 10.

Ibid. fol. 863. lin. 1. Additam. f. 190 lin. 2.

A

B

This being the Hiſtory, let us conſider the Writ, which conſiſts of three Parts, and the occaſion of it.

The Deſign of the Writ.

The firſt part of it is a Precept to the Sheriff of *Bedford* and *Buckingham* Shires, grounded upon the Earls and Barons promiſe to be at *London* three weeks after *Eaſter*, fit and prepared to march to *Portſmouth*, &c. To Summon all that held 20 *l. per Annum* Land of the King *in Capite*, (which was then a Knights Fee) to the ſame Service, and if need were to Diſtrein them.

C

The ſecond part is a Precept to the ſame Sheriff, to cauſe to come before the King's Council at *Weſtminſter* four Loyal and Diſcreet Knights, two for each Shire, ſuch as ſhould be choſen by it, to provide with the Knights of other Counties, what Aid they ſhould afford the King in ſo great neceſſity.

D

☞This was not a Summons to a General Council; the King had tryed that before, without ſucceſs. Theſe Knights were neither ſummoned *ad Colloquium vel Tractatum*, (the uſual words for Parliamentary Councils in thoſe times) but to appear before the Kings Council fifteen days after *Eaſter*, ſix days before the Barons were to meet, (who had denyed the King an Aid) to inform them what voluntary Aid each particular County would give the King in his great neceſſity toward the Defence of *Gaſcoigne*, againſt the intended Invaſion of the King of *Caſtile*.

E

Which Neceſſity and Buſineſs the Sheriffs themſelves were diligently to declare to the Knights, and others of the County, and effectually to induce them to grant the King a preſent competent Aid, ſo as the Knights of each County might anſwer upon their appearance before the Kings Council at the day prefixed, what they would do concerning this Aid ſo required of them.

F

The third part alſo is a Command to the Sheriff to Levy and pay in all the King's Debts, under ſtricteſt Penalties, into his Exchequer by a certain day, a Clauſe not to be found in Parliament Writs.

The

The Date of this Writ is likewiſe to be obſerved, *Febr.* xi. in the 38th of this King, not many days after the breaking up of the General Council of the Archbiſhops, Biſhops, Abbots, Priors, Earls and Barons, that met either *Jan.* 27. or 29. this very year, and denyed the King Aid.

Cl. 38 Hen. 3. m. 7. Dorſe. The like Writ directed to Biſhops, &c. for a voluntary Aid.

The like Writ, and the ſame Date, *Febr.* xi. at *Windſor*, and the ſame *Teſte* was directed to the Archbiſhop and Biſhops in their ſeveral Dioceſſes, to ſummon their Chapters, Archdeacons, Clergy, and the Religious Perſons in their reſpective Dioceſſes before them, and to excite them to a voluntary and liberal Contribution, to ſupply and relieve the King's Neceſſities for the Defence of *Gaſcoigne*, againſt the deſigned Invaſion of the King of *Caſtile*. A

Ibid. in eoden Brevi.

And the manner and quantity of their Aids, and the Sums they would contribute in this Neceſſity, were required to be certified from every Biſhoprick and Dioceſs to the Kings Council at *Weſtminſter*, by certain diſcreet men, fifteen days after *Eaſter*, the ſame time the two Knights for every County were to appear before the ſaid Council: Every Biſhop with the Clergy and Religious in every diſtinct Dioceſs, being to meet and act herein apart by themſelves, and were not ſummoned to meet all together, to adviſe and reſolve of this Aid requeſted of them. B

This Reſolves our Writers Queſtion, Why two Knights were choſen in every County, and cauſed to appear before the Kings Council. C

P. 248. *'Tis to be obſerved, and cannot be denied by any Antiquary, that Freeholders, and they that came from the Counties as the Repreſentatives of ſuch, had the Appellation of* Magnates.

It's very true, that in our antient Parliament-Rolls, the Knights of Shires are ſometimes called Grantz *des Counties*, or Great Men of the Counties; and well they might, for without doubt they were moſt commonly the greateſt *Tenents in Capite*, under the degree of great Barons in each County, which were choſen by the Military *Tenents*, to repreſent the *omnes alios qui de Rege tenebant in Capite*, mentioned in King *John*'s Charter, or them and all other Military Tenents by mean Tenure: for 'tis ſcarce to be believed, that thoſe Men, the Tenents in *Capite*, which made ſuch a noiſe for their Liberties, would part with this main Point, of being perſonally preſent, or the Body of them repreſented by ſome of their own number in every County; and it may be upon this account they had the Title of *Notable Knights*, *&c.* in the antient Writs of Summons directed to the Sheriffs. D E

P. 248. In this 248 Page he cites a Record, *Rot. Pat. 37. H. 3. M. 12.* but indeed M. 13. Dorſ. but mangles it, and only takes out of it what words he thinks will ſeduce unwary Readers to have ſome good opinion of his fancy: *Rex Angliæ, R. Comes Norfolc*, &c. *Cæterique Magnates Angliæ, conſented to the Excommunication of all the Violators of the great Charter*, &c. *The Record goes on, he ſays, Et Communitas Populi proteſtantur publice in præſentia Arch. Cant. necnon & Epiſcoporum omnium in eodem Colloquio Exiſtentium.* F

P. 248.

In

In cujus rei Teſtimonium, & in poſterum veritatis Teſtimonium tam Dominus Rex quam prædicti Comites ad inſtantiam Magnatum & Populi præſentium, ſcripto ſigilla ſua appoſuerunt. Ibidem.

Here (ſaith our Writer) *the Communitas Populi, were the Communitas Civitatum & Burgorum (high Confidence) for the reſt were Magnates, the King and ſome Earls ſubſcribed at the deſire of the reſt.* Ibidem.

A

See this Record examined, and the meaning of it fully cleared in the Anſwer, F. 73. A. *&c.* Ibidem.

Our Writer tells us of **Vetus Feoffamentum**, and **Novum**, *and ſays the old Feoffment was of ſuch Fees as were granted from the Crown, and that the* Novum Feoffamentum *was of ſuch Fees as were granted by the* Tenents in Capite *to others by* Sub-Infeodations, *or ſuch as the* Tenents in Knights Service *held by mean Tenure. The Fees of the firſt, or old Feoffment were all, the* Tenents in Capite *were anſwerable for when any Tax was charged upon them*; and for the Fees *de* **Novo Feoffamento**, or which were holden by mean Tenure, *or Sub-Infeodation, they could not be charged without the conſent of the mean Tenents themſelves, or Sub-Feudataries.* P. 236. &c. to p. 241.

B

Upon this Notion he makes a long Diſcourſe, and thinks he hath obtained ſo much as thereby to prove, that theſe mean Tenents in Military Services were not Taxed without their own conſent, and therefore there were more than the *Tenents in Capite* in the Common Council of the Kingdom.

C

To deſtroy this Notion, I ſhall ſhew, firſt, the meaning of the words **Vetus** and **Novum Feoffamentum**, and then the matter of Fact in this caſe.

D

Sir *Edward Coke* ſays, **Feoffment** is derived from a *French* word of Art **Feodum**, *quia eſt Donatio Feodi*, for the antient Writers of the Law, called a **Feoffment** *Donatio*, of the word *do* or *dedi*, which is the apteſt word of *Feoffment*. I ſhall not examine whether *Feodum* was a *French* word of Art, but take Sir *Edward Coke*'s meaning, that Feoffment was the Gift of a Fee; the word is properly derived from the French word *Fiefment*, which ſignifies infeoffing, or giving of a Fee, and that from the word *Fief*, a Fee. First Inſtit. fol. 9. a.

E

In the Writings of the *Feudiſts* we find *Vetus Feudum & Novum. Vetus Feudum eſt, Quod à ſuperiore, hoc eſt à Prædeceſſore præſentis Domini Conſtitutum eſt, vel Prædeceſſori Vaſſalli Conceſſum. Semper enim antiquum Feudum, de Succeſſore Dicitur, Novum autem Quod & ab eo Domino, & ei Vaſſallo, de quibus agitur Conſtitutum eſt*: i. e. Hottom. de Feud. Diſput. c. 6. Col. 819. B.

Vetus & Novum Feoffament. what they were.

F

An old Fee is that which was given by the Predeceſſor of the preſent Lord, or which was granted to the Predeceſſor of the Vaſſal. For always an old Fee is called ſo, in reſpect it hath deſcended, or gone in Succeſſion: But a new Fee is that which is given by the preſent Lord to the preſent Vaſſal, of whom we are ſpeaking.

In

bid. in Lib. 2. Feud. Tit. 3. Sect.

In another place, *Novum Feudum appellatur, quod ei de quo agitur attributum eſt; Vetus vero quod ejus Parentibus vel Majoribus.* That is called a New Fee which was given to the preſent Feudatary; and that is called an Old One, which was given to his Parents or Anceſtors.

And hence it was, that according to the King's Writs iſſued to that purpoſe, that Tenents in *Capite* did certifie into the Exchequer by Charts under Seal, how many Knights Fees they had *de Veteri & Novo Feoffamento*, that the Court might know whether they had more or fewer Knights Fees than their Predeceſſors, and ſo to charge them accordingly, and that they might perform their Homage and Ligeance to the King.

According to this underſtanding of *Novum & Vetus Feodum* by the *Feudiſts*, though not in the ſtricteſt ſenſe, we have many Inſtances in every County of *England* of Knights or Soldiers of the Old and New Feoffment in the time of *Henry* the Second, in their Charts or Certificates under Seal, how many Knights Fees, or how many infeoffed Knights they had of Old or New Feoffments, and how many they ſtood charged for upon their Demains, or Lands which they held in their own hands, and upon which they had no Knights by Feoffment. I will give one Inſtance that *Vetus* and *Novum Feoffamentum* were only to be underſtood in reſpect to former or later time, and not in reſpect to Feudataries or Perſons, or the Feoffments themſelves.

A B C D E F

S A-

SALOPSCR.

Carta Rob. de Brimton.

A

CHarissimo Dom. suo Legio H. Reg. Angl. &c. suus homo Legius Rob. de Brimton Salutem, Et fidele Servitium; michi & aliis Comparibus meis per literas vestras innotuistis, ut per fidem & Ligantiam quam vobis debemus, vobis per Breve nostrum pendens extra Sigillum, Mandaremus quot Milites haberemus de **Veteri Feodamento** de tempore Hen. Regis avi vestri, & quot Milites habeamus de **Novo Feodamento** post tempus Regis Hen. avi vestri, & quot Milites habeamus super **Dominium** nostrum. Inde est quod vobis ut Domino meo Charissimo, Mando, Quod de veteri Feodamento nullum Militem habeo prater Feodum unius, quem michi cum quadam liberali Muliere nomine **Eva** quæ modo est heres per Servitium unius Militis dedistis, faciendo Servitium ad Custum vestrum, de **Novo** autem **Feodamento** nullum habeo Militem vel super **Dominium** Meum, & vobis quidem, & filio vestro **Dominium** feci, & Ligantiam.

Red Book in the Exchequer, Tit. as here noted.

C

The same Certificate of the same Person is to be found in the same Book, Tit. **Strafforder.** of one Knights Fee there. There are several of this Tenor, or the like nature Printed at the end of these Animadversions.

And this Description of *Vetus & Novum Feoffamentum*, is fully confirmed by the Record he hath produced to settle his Notion: but according to his constant practice, he recites only as much of this Record as in his own Judgment he thinks fits his purpose, and conceals the rest.

P. 239, 246.

D

Rex Vicecomiti Somerset Salutem, Scias quod Comites & Barones, & omnes alii de toto Regno nostro Angl. Spontanea voluntate sua, & sine Consuet. Concesserunt nobis **Efficax Auxilium** *ad magna negotia nostra Expediend. Unde provisum est de Consilio illorum quod habeamus de singulis Feodis Militum* **que de nobis tenent in Capite** *&* de Wardis, *tam de* **Novo Feoffamento** *quam de* **veteri, duas Marcas.**

Clauf 19. H. 3. M. 6. Dorf.

E

Thus much and no more of this Record is quoted by this Writer; the other part follows.

Ad Auxilium prædictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad Festum Sancti Michaelis anno decimo nono, & aliam Medietatem ad Pascha, anno, &c. 20. Providerunt etiam, quod prædictum **Scutagium** *Colligatur per Manus Ballivorum suorum in singulis Comitatibus, & tradatur per Manus eorundem, Duobus Militibus, Quos ad hoc assignavimus in singulis Comitatibus deferend. ad scaccarium nostrum Lond. & liberand. ibidem Thes. & Camerariis nostris, & ideo Tibi præcipimus Quod ad Mandatum omnium* **Comitum & Baronum** *& omnium* **aliorum, Qui de nobis Tenent in Capite** *in Balliva prædicta*

F

dicta modo prædicto sine Dilatione Distringas **omnes Milites** & **Libere Tenentes qui de eis Tenent per Servitium Militare** *in Balliva tua ad reddendum Ballivis* suis de **Singulis Feodis** & Wardis **Duas Marcas** ad prædictum **Auxilium** *nobis Faciendum in Terminis prædictis, & liberandum Johanni de Aure, & Hen. de Meriet quos ad hoc assignavimus in Comitatu tuo sicut prædictum est*, &c. *Teste meipso apud Westm.* xvii *Julii, anno, &c.* xix.

A

Who were charged in this Writ two Marks for every Knights Fee that was holden *in Capite*, as well of the **New Feoffment** as of the **Old**, but the *Tenents in Capite*? To whom is the **Novum Feoffamentum** in this Writ affixed but the *Tenents in Capite?*

Who gathered this Tax but the Earls, Barons, and *Tenents in Capite* by their Bayliffs?

B

Who were to be Distreined by virtue of this Writ, to pay two Marks for every Fee at the command of the Earls, Barons, and *Tenents in Capite*, but their Sub-Feudataries and Under-Tenents, the *Milites & Libere Tenentes de eis per Servitium Militare*, Knights and Freeholders, which held of them by Military Service?

Who were the *Omnes alii de Regno* besides the Earls and Barons that granted this Tax, but the *Omnes alii qui de nobis Tenent in Capite*, (mentioned in that part of the Writ he hath concealed) at whose Command the Sheriff was by the Kings Precept to Distrein their Under-Tenents?

C

This is evident beyond contradiction by another Writ to the Sheriff of *Sussex* about the very same Tax.

Cl. 19 Hen. 3. M. 8. Dors.

Rex Vicecom. Sussex Salutem, Scias, Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & **omnes alii** de **Regno nostro Angl. qui de nobis Tenent in Capite** *Spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad Magna negotia nostra Expedienda. Unde provisum est de* **Consilio illorum**, *Quod habeamus de singulis* **Feodis Militum** & Wardis, **que de nobis Tenent in Capite** *duas Marcas, ad prædictum Auxilium nobis faciendum, & unde providerint reddere nobis unam medietatem ante Festum Sancti Michaelis*, Anno Regni 19. *& aliam Medietatem ad Pasche Anno Regni nostri* 20. *Ideo tibi præcipimus quod ad* (a) *Mandatum venerabilis Patris R. Ciceſtr. Episcopi Cancellarii nostri sine Dilatione Distringas omnes* **Milites** & **Libere Tenentes**, Qui de eo Tenent per **Servitium Militare** *in Balliva tua ad reddendum ei de singulis* **Feodis** & **Wardis Duas Marcas** ad prædictum *Auxilium nobis per manum suam reddendum in Terminis Prædictis.*

D

E

(a) He was to give this command as a Baron, not as Chancellor, as is evident by the foregoing Writ.

Sic scribitur pro aliis Episcopis, Abbatibus, Prioribus & Magnatibus.

F

Who but this Writer and another Gentleman that lent him the Notion, will pretend to prove from these Records, that *Novum Feoffamentum* was nothing else but a Sub-Infeudation of Under or Mean Tenents in Military Service, by the *Tenents in Capite?* or that these Sub-Feudataries, or Tenents, ever sate and voted in the Common Council

Council of the Kingdom, and consented to these other Taxes? If I understand any thing, I think they prove the contrary.

Thus much of Scutage, as it was an Aid or Tax imposed by common consent of the Kingdom. There was another Scutage which we may call Scutage Service; that is, Scutage which was paid by *Tenents in Capite*, when they went not out in any Expedition, according to Summons, or staid at home by leave obtained of the King; in this case they paid Scutage according to the Duration of the Expedition, or as they could agree with the King. This was due to him by Custom, without Consent of the Common Council of the Kingdom, especially if he himself went in the Expedition. Scutage-Service.

A

And besides this, there was Scutage-Service due to the *Tenents in Capite*, from their Sub-Feudataries, or Under-Tenents, if they were not with them when they served the King in Person; and this was levied only upon the King's Grant, and by his Writ, without any consent whatever: for this see the Answer, F. 117. A. &c. and it is further confirmed by the following Records.

B

Rex Vic. Northampt. Salutem. Scias, Quòd Concessimus Dilecto & Fideli avunculo nostro W. Com. Surr. quòd habeat **Scutagium** *suum de* **Militibus** *suis qui de eo Tenent in Ballida tua pro exercitu nostro Walliæ in quo nunc est per* **præceptum nostrum** *Scilicet de* **Scuto** *duas Marcas,* & ideo tibi præcipimus quod prædictum **Scutagium** ei habere facias *ut præditum est. T. R.* &c. *apud Winton, 19 die Aug.* Cl. 7 Hen. 3. M. 4. Dors. Anno Domini 1223.

C

Eodem modo scribitur Vic. Middlesex. Lincol. Oxon, Wilts, Dorset. Somers.

Eodem modo scribitur pro Hamone Peche Vic. Cantabr. Norff. Suff. Lincol. Essex, Salop, Berks. Ibidem.

D

Eodem modo scribitur pro N. de Bello Campo de Scutag. habend. Vic. Middlesex. Rotel. Hertford, Surr. Bedf. Bucks, Hunting. Berks; and for above thirty more **Earls, Barons,** and *Tenents in Capite*, in that Membrane and Roll. Ibidem.

There is in *Mat. Paris* a Relation of the Siege of *Bedford*-Castle, in the next year, the Eighth of this King, 1224. that clears the meaning of these Records beyond all doubt.

E

In Octavis Sanctæ Trinitatis Rex cum **Archiepiscopis, Episcopis, Comit. Baronibus,** & (a) **aliis Multis** Convenerunt ad **Colloquium** *apud Northampt. de* **Regni Negotiis** *Tractaturi.*

(a) The *alii multi* here were the Abbats, Priors, and *alii qui de nobis* Tenent in Capite, &c. Paris, fol. 326. n. 20. Ibid. n. 40. * See *Laici* below.

Sitting this Parliament or *Colloquium*, news was brought the King, that the Garison in *Bedford* Castle, had issued out as far as *Dunstable*, and taken *Hen. de Braybroke*, one of his Itinerant Justices, which was there hearing Causes, and carried him Prisoner into the Castle. *Quæsivit Rex Consilium à clero simul & * populo.* The King asked Advice of the Clergy and Laity what he should do, They all with one consent advised him immediately to lay aside all business, and march towards the Castle with sufficient force, and they all accompanied him; being come thither, the King demands the Castle, and his

F

Ibid. 321. 30.

Juſticiary *Hen. de Braybroke*, the Governor and Soldiers deny the King entrance into it, nor would they deliver the Juſticiary: After ſome time the King forced the Caſtle, by the Aſſiſtance of the Earls, Barons, and *Tenents in Capite*, which were at this *Colloquium*; and then,

Ibid. 322. lin. 3. *Populus & Laici* the ſame. Ibid. lin. 5.

Regi pro maximis laboribus ſuis & Expenſis, tam à Prelatis quam à Laicis conceſſum eſt per totam Angliam **Carucagium**, *de qualibet* **Caruca** *duo ſolidi Argenti, Magnatibus item Rex conceſſit,* **Scutagium**, viz. *de quolibet* **Scuto** *duas Marcas ſterlingorum, & ſic omnes ad propria receſſerunt.* A

The Prelates or Clergy and Laity granted to the King for his great Labour and Expences Carucage through all *England* of every Plough-land two Shillings of Silver.

B

* To be paid by their Tenents in Military Service.

And the King alſo granted to the * Great Men **Scutage**, *viz.* of every Knights Fee two Marks Sterling, and ſo they all departed home; this fully explains the laſt Records.

P. 242. Rot. Cl. 16. Hen. 3. m. 2. Dorſ.

A Fortieth of their Moveables is Granted by the Archiepiſcopi, Epiſcopi, Abbates, Priores, & Clerici terras habentes quæ ad Eccleſias ſuas non pertinent, Comites, Barones, Liberi Homines & villani de Regno noſtro. C

Ibid. P. 242. * The word uſed in the Record, is *Auxilium.*

*So that 'tis plain here who made the Common Council of the Kingdom, and gave the * Subſidies. The Archbiſhops, Biſhops, Abbats, Priors, inferior Landed Clergy-men, the Counts, Barons, Knights, Freemen, it being a Grant of Goods not laid upon Land; and that it may fully expreſs the Parties to the Grant, the Record tells us there were the* **Villani**, *the Inhabitants of every* **Villa**.

D

The *Clerici terras habentes, quæ ad Eccleſias ſuas non pertinent.* He calls inferior Landed Clergy-men: 'tis more than he can make out; They were ſuch Clerks as had Manners, and Free or Military Fees belonging to their Benefices, that held of the King *in Capite*, the Fee whereof was in the Crown, and not in the Church, and therefore did not belong to it; and theſe came as *Tenents in Capite.*

But *Mat. Paris* tells us they were *Epiſcopi & aliarum Eccleſiarum Prælati*; Dignified Clergy-men that gave this Tax, his words are concerning this very Council. *Apud Lambeiam Exaltatione Sanctæ Crucis, ad Colloquium coram Rege convenerunt Epiſcopi & aliarum Eccleſiarum Prelati cum Proceribus Regni, conceſſa eſt Regi Quadrageſſima pars Mobilium.* E

Fol. 377. n. 50.

See *Liberi Homines* in the Gloſſary.

What the *Liberi Homines*, or Freemen were in this Record, we may eaſily gueſs from the other two Records of 19 *Hen.* 3. *viz.* Such of thoſe *Omnes alii de Regno qui de nobis Tenent in Capite*, which were not *Milites*, in a ſtrict ſenſe, nor had receiv'd the Order of Knighthood; and the probability of this will ſeem greater when we come to the Record next cited by him about this very Matter. F

The

The only Question will be about the **Villani**, and if they will not pass for the Inhabitants of such **Villa's** as held of the King *in Capite*, such as might be the Burgesses of St. *Albans*, and other *Burgi Dominici Regis*, which are called *Villa's* in the Records; Then we must apply our selves to his next Record, which he cites, concerning a Tax of the thirtieth part laid upon Goods and Moveables about five years after.

A

Rex Vic. Kanc. Salutem, Scias quod cum in octavis Sancti Hillarii anno, &c. xxi. *ad mandatum nostrum convenirent apud Westm.* **Archiepiscopi, Episcopi, Abbates, Priores, Com. & Barones** *totius Regni nostri, ut Tractatum haberent nobiscum de statu nostro & Regni nostri idem Archiepiscopi, Episcopi, Abbates, Priores &* **Clerici Terras habentes** *quæ ad Ecclesias suas non pertinent, Comites, Barones,* **Milites & Liberi homines** *pro se & suis* **Villanis** *nobis concesserunt* B *in auxilium* **triceſimam partem** *omnium Mobilium suorum*, &c.

P. 243. Cl. 21. H. 3. m. 7. Dors.

Tenents in Capite granted for their Villanes.

From this Record we may observe, First, that the Kings Writ only issued to the Archbishops, Bishops, Abbats, Priors, Earls and Barons of the whole Kingdom.

Secondly, That in the Granting of this Tax, the Sheriff is told in the first place, that the Archbishops, Bishops, Abbats, Priors, C and the Clerks which had Lands that belonged not to their Churches, (a certain sign they Granted by themselves, and of nothing else) and then, that the Earls, Barons, Knights, and Freemen, for themselves and **Villanes**, a thirtieth part of all their Moveables.

From this Record 'tis manifest, the *Liberi Homines* had **Villanes**, if not **Bondmen**, *Villagers* or *Rusticks*, *Coloni* or *Husbandmen* at least; of whose Estates by publick Assent, and for publick Benefit D they might in part dispose of, which *Liberi Homines*, according to the Tenor of all Records and History, were *Tenents in Capite*; and that the **Villanes** mentioned in the other Records, 16 *Hen.* 3. to have given a fortieth part of their Moveables, did Grant it by their Lords, that is, their Lords Paramount, that were *Tenents in Capite*, did Grant it for them, although they held it not immediately of them, but of other *Tenents* in *Military Service*, which immediately held of the *Tenents in Capite*, who did charge them by publick Taxes, E as hath been shewn from Records, and consequently all under them.

It was frequent in these times, to signifie to the Sheriffs, and to declare in the same Grants, that such and such had granted a Tax *(Concesserunt)* that is by those then that had Power and Authority to do it for them, and without their consent too, when they themselves for whom they granted, were not capable by our Writers own Confession and manifest Reason, of being Members of the F Common-Council of the Kingdom, as Tradesmen, Servants, Bondmen, or Villanes, Women, Monyed-Men that had no Freehold Estates.

'Tis said in *Pat.* 15 *Hen.* 3. m. 3. That the Abbats, Abbesses, Priors and Prioresses, which held of the King in *Capite*, **Concesserunt**, the word used in the Records, cited for the Grant of Villanes, and yet I believe the Writer will not say, that Women since the Conquest

Conqueſt at leaſt, were Members of the Common-Councils of the Kingdom.

Rot. Pat. 48. H. 3. m. 2. n. 5.

Venerabilis Pater G. Eborac. Archiep. Angliæ Primas & alii Prelati, Magnates, Libere Tenentes, & omnes alii de Regno noſtro ſervitium fecerunt, & ſubſidium, ultra quam temporibus retroactis in aliis ſubmonitionibus exercitus noſtri facere conſueverunt. A

It ſeems by this Record, that all Men of the Nation were bound to the Service and Subſidy therein mentioned; but I believe no Man of Senſe will underſtand it ſo.

It is ſaid in the Confirmation of **Magna Charta**, 28 of *Edw.* 1. That *Omnes de Regno noſtro dederunt nobis, Quintodecimam partem omnium Mobilium ſuorum.* All Men of the Kingdom gave a Fifteenth of all their Moveables: Can any man believe, that all the Men of *England* were there in the *Colloquium*, when *Henry* the Third regranted King *John*'s Charter? or that all Men of the Kingdom met to chooſe their Repreſentatives? All the men of *England* are not perſonally preſent in this great Aſſembly at this day, nor do the tenth part of them meet to chooſe their Repreſentatives. B

Pat. 7. E. 2. p. 1. m. 3. cedul. C

Rex **Militibus Liberis Hominibus** *& toti Communitati Com. Mid. tam infra libertates quam extra ſalutem. Cum* **Comites, Barones, Milites, Liberi Homines,** *ac* **Communitates** *Comitatuum Regni noſtri viceſſimam omnium bonorum ſuorum mobilium.* **Civeſque & Burgenſes** *ac* **Communitates** *omnium Civitatum & Burgorum ejuſdem Regni quintam decimam bonorum ſuorum mobilium nobis curialiter* **conceſſerint** *& gratanter*, &c. T. R. *apud Weſtm. viceſſimo octavo die Novembr.* D

The like Writ in the ſame words was directed *Civibus, probis Hominibus, & Toti Comunitati Civitatis London*, T. R. *apud Dover* xv. *Die Decembris.*

This was a Parliament, as at this day, conſiſting of the Lords Spiritual and Temporal, and Commons; that is, of Knights of Shires, Citizens and Burgeſſes, and no others, and yet here 'tis ſaid, that the *Liberi Homines*, the *Tenents in Capite*, and the Community, or Body of all the Counties of the Kingdom, and the Citizens and Burgeſſes, and Communities of the Cities and Burghs gave a fifteenth of all their Moveables; will any man think or believe, that the Body of every County, beſides the Knights of Shires, and the Community or Body of every City and Burgh in *England*, beſides the Citizens and Burgeſſes that ſerved for them in this Parliament, were preſent there, and granted for themſelves? where ſhould this incredible vaſt number of People meet? who ſhould be their Speaker, and collect their Votes? the word in the Record is **Conceſſerunt**, which anſwers to them all, and yet no body can ſuppoſe them all preſent, though 'tis ſaid in the Record, they all granted this Tax. E F

There

There can then be no other ſenſe put upon the words, **Utillani conceſſerunt**, than that they granted by their Lords, the *Tenents in Capite*, if it will not be admitted that they were the **Utilani** or Inhabitants of thoſe *Villa*'s or Burghs that held of the King in *Capite*.

In Page 243. Our Writer cites part of a French Record out of the Pat. Roll. 24 Hen. 3. when there is no Patent Roll that year, and gloſſeth upon it as followeth. P. 243.

A

This agrees with what was done afterwards, in the 42 of this King, and it ſeems by this, that even in the 24. par le **Commune** *de noſtre Royaume; By the whole Realm, or great Council, the King had a ſpecial Council aſſigned, which was to have an extraordinary Power.* P. 243.

He is very free to take notice of what was done in the 42 of *Hen.* 3. and to that end cites two Records, 42 *Hen.* 3. m. 3, and 4. the laſt is a *French* Record, of which there hath been occaſion to ſpeak before in theſe Animadverſions, and the tendency and deſign of the other may be ſeen in the Anſwer, p. 199, *&c.* they both *relate to the Oxford Proviſions* there ſpecified. P. 244.

B

Page 248, 249. Our Writers cites this Paſſage in *Camden*'s *Britannia*, Fol. 122. *Ad ſummum Honorem pervenit*, ſpeaking of the word *Baro*. *Ex quo Rex* Henricus *ex tanta multitudine, quæ ſeditioſa & Turbulenta fuit, optimos quoſque Reſcripto ad Comitia Parliamentaria evocaverit, ille enim (ex ſatis antiquo Authore loquor) poſt magnas perturbationes, & enormes vexationes inter ipſum* **Regem**, & **Simonem** *de* **Monte-foxti**, *& alios Barones motas, & ſopitas,* **Statuit**, *&* **ordinavit**, *quod omnes illi* **Comites**, *&* **Barones**, *Regni Angliæ, quibus ipſe Rex dignatus eſt Brevia ſumonitionis dirigere, venirent ad* **Parliamentum** *ſuum & non alii, niſi forte Dominus Rex alia illa Brevia dirigere voluiſſet.*

C

D

The ſubſtance of this is, ſaith our Writer, that the word **Baro** was applicable to the whole People, the Body of Freeholders, eſpecially ſuch as aſſembled in Parlement, till the King conferred particular Honor upon ſome, by his ſpecial Writs of Summons, and none other came, but in purſuance of the *alia illa Brevia*, that is, the Writs for Elections in Counties, Cities, and Burghs. P. 149.

E

The Learned *Camden*, while he is taking notice of the various acceptation of the word *Baro*, ſays, *In Chartis & Hiſtoriis ejus ſæculi omnes fere* **Nobiles** *dicantur* **Barones**, *plenaque Honoris Appellatio illa ſane tunc erat, & nomine* **Baronagii** *Angliæ,* **omnes Superiores** *quodamodo Regni* **ordines**, *ſcilicet* **Duces**, **Marchiones**, **Comites** *&* **Barones** *continebantur.* This our Writer left out, leſt it ſhould have turned the Subſtance he gives, of what he cited, *viz.* That the word *Baro* was applicable to the whole People, the Body of the Freeholders, into a ſhadow; what man, that deſigned not Sedition, or was not confident beyond belief, could have made ſuch a Gloſs upon thoſe words in *Camden* which follow, and are the very next to theſe laſt noted. *Sed ad* **ſummum honorem** *pervenit, ex quo* Henricus *tertius, ex tanta multitudine, quæ ſeditioſa & turbulenta fuit,* **optimos quoſque** *Reſcripto ad Comitia Parliamentaria evocaverit, ille enim*

F

enim (ex ſatis antiquo ſcriptore loquor) poſt magnas perturbationes, & enormes vexationes, inter ipſum Regem & Simonem de Monteforti *& alios Barones, motas & ſopitas, ſtatuit & ordinavit, quod omnes illi* **Comites & Barones** *Regni Angliæ quibus ipſe Rex dignatus eſt* **Brevia** *ſummonitionis dirigere venirent ad Parliamentum ſuum, &* **non alii**: *niſi* **forte** *Dominus Rex alia illa Brevia* **eis** *dirigere voluiſſet.*

The word *Eis* he hath left out, which diſcovers to whom theſe Writs were to be directed.

That is, in the Charters and Hiſtories of thoſe times, almoſt all the **Noblemen** were called **Barons**; and it was then an Appellation full of Honor, or a name of great Extent: and under the name of **Baronage** of *England*, all **Superior Orders** as it were of the Kingdom; that is to ſay, **Dukes, Marqueſſes, Earls** and **Barons** were contained. But it became a word of **Higheſt Honor**, ſince *Henry* the Third out of ſo great a Multitude, which was **Seditious** and **Turbulent**, called the **Chiefeſt** or **Greateſt** of them, by his **Writ** to Parliament: For he, (I ſpeak it out of a Writer ancient enough, ſays *Camden*) after great Troubles and enormous Vexations, raiſed between the King, *Simon Montfort*, and other **Barons**, when they were overcome and quieted; appointed and ordained, that all thoſe **Earls** and **Barons** of the Kingdom of *England*, to **whom** he thought **fit** to direct Writs of Summons, ſhould come to his Parlement, and **no others**; unleſs by **chance** the King would direct other ſuch Writs to them. That is **Writs** of the like Form and Tenor.

And the Practice was then, and hath been ever ſince, accordingly; the King only calling the great Barons, to ſit as Barons by his Writ, (though in thoſe times probably, the King might omit to Summon whom he would) and if at any time he called any others by thoſe his **Alia illa Brevia**, his ſuch other Writs as had been directed to the Earls and great Barons, they were *pares Baronum*, the *autres Grands & Nobiles*, the **Proceres & Magnates**, beſides the Earls and Barons mentioned in the Writs of Summons to Parlement, 18 *Ed.* 1. 22 *Ed.* 1. M. 6. Dorſ. 28 *Ed.* 1. M. 3. Dorſ. here Printed at the end of the Anſwer to Mr. *Petit*, and in many other places in the old Parlement Rolls and Summons in the Reigns of *Edward* the Second and Third; and though ſome of them were often ſummoned, and their Heirs after them, yet were they no Barons, the Writs of Summons not making them ſuch, according to the Vulgar Error. Nor can any man but an Ignorant Selfconceited Scribler, think or Fancy, that the *Alia illa Brevia*, the other ſame Writs were directed of courſe to any County, Cities or Burghs at that time, or according to the meaning of this Relation, for Mr. *Camden*'s Author ſays, *Niſi forte Dominus Rex* **Alia illa Brevia**, unleſs caſually or by chance, or ſometimes, other of them ſame very Writs, and of the ſame **Form**, which had iſſued to the **Earls** and **Barons**, were directed to any others. And to make it clear, without contradiction, thoſe **Alia illa Brevia**, which were **directed** to the **Noblemen** were of a different **Form**, thoſe for electing of Knights, Citizens and Burgeſſes, which were always **directed** to the Sheriffs of Counties, not **Eis** (which word is left out by this Writer) to the **Parties** themſelves.

P. 248, 249. Britan.

Page 248. and 249. *Our Writer cites a Paſſage in* Camden, f. l. 122. *and thus Comments upon it.*

The

The substance of this is, That the word Baro *was applicable to the whole People, the Body of Freeholders especially, as Assembled in Parliament, till the King conferred particular Honor upon some, by his Especial Writs of Summons, and none other came, but in the pursuance of the* alia illa Brevia, *that is the Writs for Election in Counties, Cities and Boroughs, this was begun to prevent those Tumults, of which both the King and the Barons had fatal Experience.* P. 249.

A *The* Probi Homines, *or* Bonæ Conversationis, *came sometimes in their own Persons; and when they agreed to it, which was no Abridgement of their Personal Right, they came by Representation* Ex Electione, *and every one was there himself virtually, by his Deputy, but they often met in vast Bodies, and in Capacious Places, both in the Saxons Times, and after* William *the first obtained the Imperial Crown.* P. 264.

B This is precariously said without any Foundation or Authority; yet he seems to back it with an Instance.

The whole Body of Proprietors, he says, *were assembled at* Runemede *between* Staines *and* Windsor, *at the passing of King* John's *Charter.* Ibid. P. 264.

C What this Assembly was, and of whom it consisted, see the Answer, f. 71. E. f. 72. A.

Anselm, *in one of his Disputes with* Henry *the First, desires the Debate may be adjourned till the* Easter *following. He comes to the Court at* Easter; Igitur in Pascha Curiam venit, regni ingenuitatem præsens Consulit. Communis Concilii vocem accepit, *&c.* P. 265. Eadmer Hist. Nov. fol. 70.

D *Here the Council* Episcoporum & Primatum, *to which he referred himself, was reciprocal with the* Ingenuitas Regni; *that is, as Sir* Henry Spelman *shews us, the* Liberi & Legales Homines, *The good honest Freeholders, some of which were no better than* Plebeians. Ibid. P. 265.

Sir *Henry Spelman* is not very Elaborate in Expounding the word *Ingenuus*, and says that some Moderns have used to express our *Tecmen* and *Plebeians* by it; but whether properly, or like *Latinists*, he did not know.

E The word amongst the *Romans* signified the same as Free-born amongst us. *Hottoman* says, that *Ingenui* were the same that *Patritii*, who were no common ordinary Men. And *Calvin, Ingenuus est cui ex Nativitate Competit Libertas, qui non est factus Liber, sed Natus. Erat igitur Ingenuus quem nos hodie gentilem vocamus, Gentiles sunt qui inter se eodem nomine sunt, Quorum Majorum nemo servitutem servivit, qui Capite non sunt Diminuti, ut* Bruti, *ut* Scipiones. And so proceeds from the Authority of *Cicero, Pliny, Budæus, Boetius, Livy*, and others, to make them Nobiles. Lexic. Jurid.

F And in this sense or the like, his Author *Eadmer* more than once useth this word. King *Henry* the First wrote to *Anselm* to respit the Consecration of *Thomas* Archbishop Elect of *York* for some time; and said, he himself when he came into *England*, would compose all

Differences between them relating to the Conſecration. *Anſelm* ſends the Dean of *Chicheſter*, and a Monk of the Abby of *Bec.* into *Normandy* to the King, to acquaint him with the State of the preſent Difference between them, and to beſeech him, *Quatenus ſuæ Auctoritatis* **Ingenuitate**, *& proviſione ſatageret, ne Integritas Chriſtianitatis in duo Diviſa ſcinderetur in Anglia.*

Eadmer, f. 101. lin. 49.

Certainly *Auctoritatis* **Ingenuitas** doth not here ſignifie a *Plebeian* or *ordinary Authority*, but a *Royal*, *Noble*, and *great Authority*, by which he was to interpoſe, and over-rule the Differences between both theſe great Prelates. A

In another place ſpeaking of *William* Son to King *Henry* the Firſt, he hath theſe words, *Willielmum, Quem ex* **Ingenua** *Conjuge ſuâ filium ſuſceperat, hæredem Regni Subſtituere ſibi volebat.*

Ibid. f. 117. lin. 39.

It cannot be ſaid that *Maud*, Queen to *Henry* the Firſt, the Daughter of *Malcolm* the Third late King, and Siſter to *Edgar* the then preſent King of *Scotland*, was a *Plebeian*, or an *ordinary* Woman; the leaſt then that **Ingenua** as an *Epithet* joyned with *Conjuge*, can ſignifie in this place Muſt be, *Noble*, or *Great*; and that King *Henry* had his Son *William* by his *Noble*, *Great*, or *Illuſtrious* Wife, *&c.* B

In the Hiſtory of the Founders of *Ford* Abby in *Dorſetſhire*, there are theſe Paſſages. *Fuit autem* **Reginaldus** *de Courtenay filius Domini Flori, Filii Regis Franciæ Ludovici, cognomento Groſſi, ac etiam Hawiſia Vicecomitiſſa, uxor ejus ſecunda, de ſanguine Regio Anglicano, ex parte Dominæ Albredæ, neptis Regis* Willielmi Baſtardi, *Matris Aviæ ſuæ Dominæ Adeliciæ Vicecomitiſſæ, generoſæ exorta. Tota ergo illorum poſteritas,* **Reginaldi**, *videlicet, &* **Hawiſie** *tam ex Patre, quam ex Matre, de* **Regio Semine** *prodiit, ac* **Tribus Regia** Franciæ, *pariter & Angliæ, in eis mixta fuit, ſic ſanguis eorum mere fit* **Ingenuus** *& præcipue generoſus.*

Monaſtic. Anglican. vol. 1. f. 786. col. 1. n. 60.

C

D

Robert the Son of this *Reginald* and *Hawiſia*, or *Avis* after his Death had this Epitaph ingraven upon a Pyramidal Pillar.

Ibid. f. 787. col. 1. n. 30.

Hic jacet **Ingenui** *de Courtnay, gleba, Roberti*
Militis Egregii, virtutum laude referti,
Quem genuit Strenuus Reginaldus Courtinienſis,
Qui **Prorer** *Eximius, fuerat tunc Devonienſis.*

E

Hugh Courtney Earl of *Devonſhire*, who died 51 *Ed.* 3. married *Margaret* the Daughter of *Humphry de Bohun* Earl of *Hereford*; of her it is ſaid, *Hæc Margareta Matrem habuit* **Ingenuam**, *Dominam Elizabetham, Illuſtriſſimi Principis & Regis inclyti Edw. poſt Conqueſtum Angliæ primi filiam*, &c. *per quam contigit poſteritatem Courtneis Regio ſanguine Anglico iterum Renovari ex ea provinientem,* **Ingenuitas** *enim hujus Dominæ* Margaretæ *neptis Regis Angliæ, quæ fuit filia filiæ Regis* Edwardi *egregii, Æquipollet generoſitati* Reginaldi de Courtney *ſupradicti, qui fuit filius Domini* Flori *filii Regis* Franciæ Groſſi Ludovici, *& ſic generoſitas* de Courtneis *recentiori* **Ingenuitate** *ſublimatur*, &c.

Dugd. Baron. Tom. 1. fol. 639 col. 2.

Monaſt. Angl. vol. 1. fol. 789. col. 2. n. 30, 40.

F

Præcipui

Præcipui Proceres Normanniæ, Gualterius Giffard, Gulielmus Bitolienſis, & Radulfus *de* Conchis *defuncti ſunt. Walter Giffard* Earl of *Buckingham* died in *England*, and as he had directed, was carried into *Normandy*, and buried in St. *Maries* Church Porch at *Longaville*, upon whom was written this Epitaph. Order. Vital. f. 809. C. D.

Stemma Giffardorum, Galterius Ingenuorum,
Quæ meruit vivens, Buſta Sepultus habet, &c.

This *Walter Giffard* came into *England* with the Conqueror, and was with him at the Battle of *Haſtings*; He was Son of *Osborn de Bolebec*, and *Avelin* his Wife, Siſter to *Gunnora* Dutcheſs of *Normandy*, and Great Grand-Mother to the Conqueror; and therefore muſt be many Degrees above the ordinary *Plebeian* Ingenuity. Gul. Pictav. f. 202. D. Gul. Gemet. lib. 8. c. 37.

Upon Conſideration of the antient import of the word Ingenuus among the beſt *Roman Authors*, and the ſignification and ſenſe that our Writer's own Author *Eadmer*, and other old Hiſtorians and Authors uſed both that and *Ingenuitas* in; no Man can think but that by Ingenuitas *Regni*, he meant *Nobiles*, or *Magnates Regni*, or at leaſt the *Liberi Homines Regni*, which when ever mentioned in reſpect to Great Councils, and their being there, are all the ſame Perſons. See *Liberi Homines* in the *Gloſſary*.

And therefore becauſe Sir *Henry Spelman* in his Expoſition of the word Ingenuus, ſeems not to favour his Notion of it; and in his diſcourſe upon the word Parliament, doth diſallow his Whimſies and Apprehenſions concerning the antient Conſtitution of it, he ſays, that he or they who put out the Second Part of Sir *Henry Spelman*'s Gloſſary, *did not do right to his Memory, in repreſenting him affirming, That the* Plebs, *the* Ingenuitas, *or* Liberi & Legales Homines, *as he himſelf tells us the word* Ingenuus, *has anciently been uſed, are no where amongſt the ſeveral Councils which he had read of, mentioned to have been there, from the entrance of* William *the Firſt, to the end of* Henry *the Third.* P. 265. P. 265. Sir *Hen. Spelman* doth not ſay ſo, he only ſays the *Moderns* did now ſo uſe the word, but whether rightly or not, he could not tell. Vid. *Verbum Ingenuus*, in his *Gloſſar.*

Indeed notice being taken of thoſe Councils where were Optimates *and* Barones totius Anglie, *and of that famous Aſſembly at Salisbury-Plain of the Barons and* Vicecomites, *cum* ſuis Militibus, *in purſuance of the Summons of* William *the Firſt. The Poſitiveneſs of the Aſſertion, (that is, of Sir* Henry Spelman's *Aſſertion) That the Plebs were not in the antient Councils until the end of* Henry *the Third's Reign, is* reſtrained *with a* Ni in his Dilituerit. P. 266.

This Ni in his Dilituerit is *Ironically* ſpoken; for he ſays juſt before, *Ludunt qui Parliamenta noſtra in his Quærunt*, juſt when he had mentioned this Aſſembly at *Salisbury-Plain*, and ſome others ſuch like before it.

He lays the ſtreſs upon ſome words of *Simon* of *Durham*'s Relation of this Convention, who Tranſcribed the very words out of *Florence* of *Worceſter*, which are truly recited by this Writer, Page 51. and are theſe.

William I. Anno Dom. 1086.

Nec multo poſt Mandavit ut **Archiepiſcopi, Epiſcopi, Abbat. Comites & Barones, Vicecomites, cum ſuis Militibus,** *die Kalend. Auguſt. ſibi occurrerent Sarisberie,* **Quo cum veniſſent Milites illorum** *ſibi Fidelitatem contra omnes homines jurare Coegit.*

P. 52.

Here I take it (ſays he) Milites illorum, *refers to the Knights of the Sheriffs, that is, the Freeholders. And in Page* 50 *he tells us, The King gave Arms in his Court to the Great Men, and immediate Tenents. The common Freeholders received them in the County-Court.* A

To let this idle Invention paſs, of the common Freeholders being Knighted in the County-Court, which never entred into any Mans head but his own, if he had underſtood the conſtruction of the words, he could never have ſaid that **Milites illorum** had referred to the **Milites** of the Vicounts or Sheriffs only. The Sentence runs thus, **Quo cum veniſſent,** *Milites illorum*; who came to *Salisbury*? The Sheriffs only? If the Archbiſhops, Biſhops, Abbats, Earls and Barons came thither, as there can be no doubt but they did, then *Milites illorum* refers as well to them as to the Sheriffs, for they were the *Military Tenents* of them that came to *Salisbury*, which the Conqueror compelled to Swear Fealty to him againſt all Men. Nor were theſe *Vicecomites* ſuch ordinary Men, as for ſome hundred of years laſt paſt have been Sheriffs, but they were Great Men, *Pares Comitum*, not Officers under them, but ſuch as governed the Counties for the King, *Vice-Comitum*, inſtead of an Earl, where an Earl had not the Government of it, and were *Tenents in Capite*, and perhaps Proprietors of as many Knights Fees, as ſome of the Earls. B C

Such another Aſſembly as this there was in the ſame place, when King *Henry* the Firſt made all the *Military Tenents* of *England* and *Normandy* do Homage, and ſwear Fealty to his Son *William* at twelve years of age. D

Malmsbur. fol. 93. a. n.

Filium habuit Rex Hen. ex Matilda nomine Willielm. dulci ſpe, & ingenti Cura in Succeſſionem Educatum & provectum, nam & ei vix dum 12 *annorum eſſet* **omnes liberi homines** *Angliæ & Normanniæ* **cujuſcunque ordinis, & Dignitatis,** *& cujuſcunque* **Domini Fideles,** *Manibus & Sacramento ſe dedere coacti ſunt.* All the Freemen of *England*, that is, all the *Tenents in Knights Service*, of what Order or Dignity ſoever, or of what Lord ſoever they held, were compelled to do Homage and ſwear Fealty to him. E

Fol. 117. n. 30. 16 H. 1. 1116.

Eadmer relating this very action, tells who were the great *Liberi homines*: xii Kal. Aprilis, *Factus eſt Conventus* **Epiſcoporum, Abbatum, & Principum** *totius Regni apud Serberiam, Cogente eos illuc Sanctione Regis* Hen. I. &c. and then *agnitâ Regis voluntate omnes principes facti ſunt homines* Willielmi *Fide & Sacramento Confirmati*; and ſo *Florence* of *Worceſter*. F

Here are the Men and Work of this Aſſembly, and by neither it can be made out, that theſe were the Common Freeholders, as at this day, or the Sheriffs Knights, as he calls them, or that this was a Common Council of the Kingdom: for though the ſame Perſons that conſtituted that, were here, and Thouſands more, yet the Buſi-

neſs

ness was no Common-Council Business, and the cause of the meeting according to the Summons, was only to take the Oath of Allegiance, and swear Fealty. Vid. Spelm. Glossar. f. 451. col. 2.

Having given an Account of the Assembly at **Salisbury**, and the meaning of the words *Vicecomites cum suis Militibus*, we shall take notice of what our Writer says concerning Sir *Henry Spelman* and his *Glossary*.

Who if he had lived (he says) *to have finished the Second Part, would certainly have given a Compleat Body of Antiquity.* And Page 265. he tells us again, *That he was convinced from Sir* Henry Spelman's *Interpretation of the word* Ingenuus, (*of which enough is said before*) *That he or they who put out the Second Part of Sir* Henry Spelman's *Glossary, did not do right to his Memory.* But the true Reason of such his thoughts (as is before hinted) was, because he did not accord with him in his Opinion of the Members of the Great or General Councils of the Kingdom. P. 219. P. 265.

And indeed as he deals with Sir *Henry Spelman*'s *Glossary*, in saying the Second Part was not his own, so he doth shuffle off all Records and Histories which are directly against him, by saying the *Curia*, or Great Councils there mentioned, were but an ordinary *Curia* or Council, and such as in his own Judgment contain any thing that makes for him, the Councils there spoken of, are Great and General Councils to be sure.

An Account of the Second Part of Sir *Hen. Spelman*'s Glossary.

But to return to the *Glossary*, the First Part whereof to the Letter N. was published in the year 1626. the whole being then finished, and offered by Sir *Henry Spelman* to Mr. *Bill* the King's Printer, for the value of Five Pounds in Books only: But he refusing to give him that small Rate for the Copy, he ventured to Print the First Part of it at his own charge, and most of the Books lay upon his hands until the later end of the Year 1637. when Mr. *Stephens* and Mr. *Meredith* (Booksellers in St. *Paul*'s Church-yard) took them off. The next year, *viz.* 1638. Sir *William Dugdale* being with Sir *Henry Spelman*, and telling him, that many Learned Men were very desirous to see the remaining Part of that Work, Sir *Henry* then told him what is here related, and produced both Parts of the *Glossary*, the first whereof was Printed, and inter-leaved with Blank Leaves, as also was the second, which was Manuscript, wherein he had added and altered much.

After His Majesties Restauration, the Earl of *Clarendon* then Lord Chancellor, and Doctor *Sheldon* then Bishop of *London*, inquired of Sir *William Dugdale* what was become of the remaining part of the *Glossary*, or whether ever it was finished? He told them it was finished, and in the hands of Mr. *Charles Spelman*, Grandchild to Sir *Henry*, and youngest Son to Sir *John*. Whereupon they desired Sir *William* to move him to Print it; which he did: but finding that the Booksellers would give nothing for the Copy, and that he was not able to Print it at his own charge, and returning this answer to the Lord Chancellor and Bishop of *London*, they contributed liberally themselves, and procuring many Subscriptions to that purpose,

deſired Sir *William Dugdale* to receive the Money, and deal with a Printer to perform the Work: which he did, and cauſed it to be Printed as he received it, all under the proper hand-writing of Sir *Henry Spelman*, without Alteration or Addition. And had it not been for the Dreadful Fire in *London*, wherein both the Copy and the greateſt part of the Impreſſion were conſumed, it might at this day have been produced to have confirmed what is here reported. For the truth whereof Sir *William Dugdale*, a Perſon of great Learning, Worth, and Integrity, and now a Living Teſtimony without exception, may be conſulted, if any Man doubts what is here delivered. A

By this Narrative it is evident that the Second Part of the *Gloſſary* was the true, genuine, and proper Work of Sir *Henry Spelman*; and therefore I ſhall here Publiſh his Diſcourſe upon the word *Parliament*, as ſtating and giving much light to the determining of this Controverſie. B

C

D

Parla-

E

F

PArlamentum, al. Parliamentum, & Parlementum.] A. Gall. Parler, i. loqui, *Colloquium* appellabant veteres, & est solenne *Colloquium* omnium *Ordinum* Regni, *Authoritate* solius Regis, ad *consulendum Statuendumque*, de negotiis Regni *indictum*. Hæc Augusta vocis significatio, humiliores recipit. Ex Glossar. Spelman, P. 449.

A

Parliamentum dixere Croylandenses Cœnobitæ sub temporibus Willielmi II. & Ingulphi Abbatis suas de rebus sui Monasterii *Consultationes*, ut testatur codex illic antique M. S. fol. 89. Et suas utique nostri hodie Jurisconsulti in Hospitus fori, ut notissimum est.

Croylandensis libri hæc sunt verba----Concessimus etiam tunc Serjentium nostræ Ecclesiæ *Semanno de Lek*; qui veniens coram Conventu, in nostro *publico Parliamento*, similiter juramentum præstitit, quod fidus & fidelis nobis existeret & Officium, *&c.* E quibus innuit privatas etiam Consultationes, dici Parliamenta, nam hoc publicum vocant. *Albertas Argentinus* vocem intelligit de omni concessu, etiam *Militari*: sic enim ille sub An. 1218. Cum olim (inquit) *Milites Basilienses* ad Torneamenta, hastiludia, & *Parlamenta* alia cum multitudine egredirentur, *&c.*

B

C

Et in antiquis scriptis Prædialibus occurrit mihi aliquando *Parlement Hill*, id est, Collis *Parlamentarius*, quod (ut reor) convenire hic olim solebant *Pagenses* aliquot, ad causas inter vicinos dirimendas; prout in Hibernia frequentes vidimus *the Parle and Parlinge Hills* nuncupatus.

Reperitur (fateor) vox antique in Canuti legibus; sed è recentiore *Interprete Anglo-Normanno*, Latine data: *Danis* enim & *Saxonibus*

D

peregrina vox.

Magni hujus Concilii *Specimen* inter *Normannos*, *Saxones*, *Britannos* quærunt Philologi. Britannos lepide ex illo Cæsaris, Lib. 5. Summa Imperii Bellique administrandi Communi Concilio permissa est Cassivilano, p. 87. Quid *Castrense* hoc *Consilium* ad *Civile* nostrum? Quid *confœderatarum copiarum* adversus hostem communem coactum confugium, ad *Ordinum* Regni solennes concessus? Audi

E

Tacitum de Britannis----Olim Regibus parebant; nunc per Principes factionibus & studiis trahuntur; nec aliud adversus validissimas gentes pro nobis utilius, quam quod in commune non consulunt. *Rarus duabus tribusque Civitatibus* ad propulsandum commune particulum, *conventus*; *ita dum singuli pugnant, universi vincuntur.*

In vita Agric. p. 142. Vides in hisce Consiliis nec Regis adesse præsentiam, nec authoritatem: & convenire rarius duas vel tres

F

Civitates, fœminasque ut appareat veterum Germanorum & Lacedæmoniorum ritu non exclusas; Nam in Imperiis (inquit idem Tacitus) sexum non discernunt, sic Voadicea Icenorum nostrorum furens *Pentheſileia*, quæ----Romanos uno prælio peremit, belli administrat Imperium. Hæc de Britannorum Conciliis.

Saxonum mos, & Germanorum cognoscitur. ----*De minoribus rebus* (inquit Tacitus) **Principes** *consultant, de majoribus omnes. Ita tamen ut ea quoque quorum penes plebem arbitrium est, apud* **Principes** *prætractentur. Res* **minores**, *exponunt causas privatas* & ad forum *pertinentes*, **majores** *publicas. In celebrandis hisce Conciliis, non coeunt nisi Luna novâ vel plenâ; nec indicto die (ne non liberi viderentur) sed vel altero, vel tertio: Considunt armati, concionemque & silentium moderantibus* **Sacerdotibus**, *audiuntur vel Rex vel Princeps; vel prout cuique ætas, nobilitas, vel facundia, suadentes autem, non jubentes. In ferendis suffragiis, fremitu aspernunt quod displicet; & framearum concussu laudant, quod placet.* Sic *Germani* veteres in Germaniâ, *apud Tacitum*; & Britaniam advecti, patrios sine dubio ritus una advehunt, sed fide imbuti Christianâ, rigidiores sensim deponunt, & Christianorum induunt. A

Conciliorum igitur duo posthac genera: *Ecclesiasticum* quod ab Apostolis institutum, expediunt jam *Archiepiscopi, Episcopi, Abbates, Clerus*; Præsentibus etiam sæpius ipso Rege, *cum Magnatibus populique Senioribus*: sed de hoc non hic locus. *Seculare*, cui post Regem aderant Prælati antedicti & *Aldermanni* (*alias Seniores atque* **Sapientes** *Regni*) hoc est **Duces, Comites, Proceres** & **Magistratus** nonnulli, ut in voce *Aldermannus*, explicavimus. B

Inas Rex Occidentalium Saxonum, qui floruit An. 712. *leges suas condidit*, ut ipse loquitur **mid Geþeahte, & mid lere Cenredes Mines Feder**, *&c. Consilio* (inquit) *& documento Cenredi patris mei, Hedda, & Erkenwoldi Episcoporum meorum, omniumque Aldermannorum meorum, & seniorum* **Sapientum** *populi mei, magna etiam servorum Dei frequentiâ*: sufficit hoc unum exemplum ad modum exprimendum omnium *Conciliorum* Anglo-Saxonum: Etiam licet nec in eisdem *Episcoporum* fiat mentio, nec *Aldermannorum*. Juxta enim seculi illius usum, comprehendi plerumque solent, vel in præfatione legum, vel in contextu, *Sapientum* vocabulo: Et hoc quidem desiderato, præsentes tamen intelliguntur omnes, ut ex *Æthelstani* legibus observatur, qui in Ecclesiasticis illic constitutionibus usum se refert, *Episcoporum* consilio, in secularibus vero edendis, nec secularium meminit, nec *Episcoporum*: Interfuisse, tamen utrosque constat è subscriptione quadam dicente. **Calle this was geſetted on tham miclan Synod**, &c. *Decreta sunt hæc omnia in magna Synodo Gratelianâ, cui Aderat* **Wilhelmus** *Archiepiscopus, & cum eo* **Nobiles** omnes & **Sapientes** ab **Ethelstano** *congregati.* C D E

Sed ut uberius dicam de personis in istiusmodi *Concilio* convocatis, occurrit primo *nusquam me reperisse inter* **Saxones** *nostros* **Plebi** *locum cui in Germania* **Tacitus potiorem** *tribuit.* Qui in *Inæ* Regis *Concilio* memorantur, sunt ut vides *Episcopi, Aldermanni, Seniores*, sapientes Populi, & *Servi* Dei de *Episcopis*, satis notum. Aldermanni vox adeo generalis est, ut omnes comprehendat, qui vel dignitate præsunt vel officio: *Regulos, Subregulos, Principes, Duces, Comites* & *Magistratus* quoslibet, ut in voce *Aldermannus* enarravimus. F

Hoc autem loco de Comitibus intelligo & toparchis, quod prætereat, numerat *Seniores Sapientes Populi*; qui Latinè idem sunt quod Aldermanni Saxonicè.

Seniores

Seniores Sapientes Populi, idem est Latine quod Aldermanni Saxonice, ut in verbo *Senior* referemus. Qui vero appellantur *Servi Dei*, strictius ego intelligo de Ecclesiasticis, qui sub hisce seculis, peculiari isto gestiebant nomine eodemque veniunt in condendis Æthelstani legibus Ecclesiasticis, Cap. 3. Viris non tum consultis secularibus: Et in Synodali Conciliabulo *Clotshoviæ*, Ann. Dom. DCCCXXIV. explicite ponuntur, *Dei Servi*, Presbyteri, Diaconi, Monachi. Ad
A hæc quæ diximus fidem faciunt Conciliorum plurium M. S. Chartarumque in eisdem Confirmatarum subscriptiones: in quibus præter Regem, & interdum Reginam, has invenimus: Ex parte Ecclesiasticâ, passim Archiepiscopos, Episcopos, Abbates; nonnunquam Abbatissas, Presbyteros, Monachos. Didascalum, Dogmatistam. Ex parte laicâ, Regulos, Subregulos, Principes, Patricios, Aldermannos, Hertogenas, qui & alias Duces, alias Comites, Præfectos & interdum ditionis alicujus, putâ Merciæ, Hlafordas, (i. Dominos)
B Thanos etiam, qui & Ministros. Continentur hi quidem omnes (ni *Thanum* excipias) sub Aldermannorum nomine, ut supra diximus; & qui in una Charta Aldermannus scribitur in alia *Hertogin*, in alia *Dux*, in aliâ *Comes* appellatur. Sic *Ælfherus* in Chartis Wigornensibus.

Excedo tenebris in crepusculum, sed lux adhuc malefida, *Gulielmus* I. qui a *conquirendo*, hoc est *acquirendo* Angliam, non a *subigendo*
C (ut plerique censent) dictus est *Conquestor*, *terram totam inter Magnates suos sic disposuit*, ut suum quisque *Patrimonium de Rege teneret in Capite, per servitium plerumque Baroniæ.* Hinc *Magnates*, *Barones Regis*, & *Barones Regni* nuncupantur, Regni etiam *Capitanei*, quod *in Capite*, id est, a Rege tenuere, & in librum *Domesdei* conscribuntur singuli; Patrimonia sua (Reservata ad alendum sui ipsius familiam, splendida portione) suis quisque clientibus (quos vulgo Milites vocant) feodorum nomine dispartitur, & hi vicissim inter *Tenentes*
D suos & Colonos. Sic pars nulla Regni vel agrorum præter terras ipsius Regis, *& quæ Deo data sunt in liberam eleemosynam*, quin *alicui Baronum* erat subdita, cum é tenuræ ratione, tum & jurisdictionis privilegio. Superior enim quisque Dominus, *Regulus agit*, in suos Subditos, & in rebus ad feodum suum pertinentibus, *ex ipso jure feodali*, jus dicit, quod de Germanis olim notavit Tacitus: *Agricolis* (inquit) *suis jus dicunt.* Agricolas autem appellare censeo, qui *agrariis coercentur legibus & servitiis.*
E

Mirum interea sub his seculis, *Dominorum* in *Vassallos* **Imperium**, Vassallorum utique erga Dominos, *amor* & *obsequium.* Quod ex pertinacia *Gerardi de Canvilla* dignoscatur, qui in magno Regni Concilio Anno 5 Ric. I. Northamptoniæ, celebrato, læsæ Regiæ Majestatis postulatus, respondit: se esse hominem (i. e. *Vassallum feodalem*) *Comitis Johannis*, & velle *in Curia sua* jure stare.

F Hinc *feodalis Domini* ex assensu feodalium *suorum Vassallorum* (quos *Pares* feodi vocant & *Pares Curiæ* suæ) leges ferebant, de rebus feodi sui: Et *Superiores* quique de inferioribus.

Rex perinde qui totius Regni Dominus est supremus, regnumque universum, tam in Personis Baronum suorum, quam è subditorum ligeantiâ, ex jure Coronæ suæ subjectum habet **Consilio** & **assensu**

Baronum

Is not this a Mark and Argument of a Victor.

Baronum ſuorum leges olim impoſuit univerſo Regno; & conſentire inferior quiſque viſus eſt, in perſona Domini ſui Capitalis, prout hodie, per *Procuratores Comitatus* vel *Burgi*, quos in *Parlamentis Knights and Burgeſſes* appellamus.

Lib. Rames. 109.

Convenire igitur ſolebant *Barones Regis*, prout opus, ter quotannis ad Aulam Regiam, id eſt, ad *Natale* Domini noſtri, ad Paſcham, & ad Pentecoſtem, prodireque tunc ſolebat Rex coronatus publicè, & cum *Baronibus* de Negotiis regni conſtituere. Sic Canutus Rex ſuas leges in Chriſti tulit Natalitiis. Edmundus in Paſchatis feſto, Henricus I. Anno 1108. in Pentecoſtes. Sed & aliis quoque temporibus, ut fuit opus. A

Habes morem veterem, quem mutaſſe ferunt Henricum I. Anno Regni ſui 16. *Plebe ad Concilium Saresberienſe tunc accita.* Hæc vulgaris opinio, quam typis primus ſparſit, *Polydorus Virgilius*, acceptam Subſequentes Chronographi. Nos ad Authoris illius ſeculi provocamus & vicini. *Flor. Wigornenſis* in An. Dom. 1116. (qui eſt 16 Henrici I.) ait, *Conventio* **Optimatum**, *&* **Baronum** *totius Angliæ apud Searesbiriam* 14 Cal. Apr. facta eſt. *Eadmerus* de eodem ait 13 Kal. Apr. *Factus eſt Conventus Epiſcoporum, Abbatum, & Principum totius Regni apud* **Serberiam**, *cogente eos illuc Sanctione Regis.* Nichil hic de **Plebe**, nec in notis aliquibus aliis Authoribus vel illius ſeculi, vel alterius cujuſlibet; qui tam inſigne libertatis Privilegium, ſilentio (proculdubio) non tranſiiſſent. Enatum enim cum jam certo eſſet, paſſim prædicant inferiores. B C

Sed ad hoc reperitur audio neſcio quid in veteri quodam M. S. codice, Authoris, temporis, fidei incertæ---Communes (ſic plebem vocant) tunc vocatos. Rem qui amplectuntur ideo factam cenſent, ut *Rex* iſte *Angligenus Anglos* ſibi contra *Normannos maleſidos* confirmaret. D

Sed Vir acutiſſimus *Gualterus Raleigh* Lib. de Prærogativa Parliamentorum, *Angliæ* factum non opinatur ante 18 Hen. I. quod in Anno 17 Regni ejus, ſolius ſui privati Concilii aſſenſu, tributum impoſuit in unamquamque Hydam, (ſeu Carucatum) terræ ad collocandam filiam ſuam in Matrimonio. Et de eodem ait **Huntingtonius**---*Geldis creberrimis & exactionibus variis Anglia compreſſa eſt.* Ego *Anonymum* illum, eo reor deceptum, quod hoc Concilium coactum fuit ut ferunt (*Wigornenſis* & *Eadmerus*) *non conſultandi gratia*, vel *ſtatuendi*, ſed ut **Magnates** *Angliæ* fidelitatem *præſtarent* & *homagium* **Gulielmo** *filio Regis*, quod Rex ipſe *dubios* in *Normania Caſus* ſubiturus eſſet. E

Convocatos etiam ea Cauſa primores plebis veriſimile eſt: nam ſubmerſo ſub quinquennio poſtea Gulielmo Principe, *Epiſcopos Comites Barones*, & omnes qui alicujus videbantur eſſe momenti, (*Neubrigenſis* verba ſunt) *Londinum* vocat ad Concilium, fidem jam Matildi filiæ ſuæ juraturos. F

Sic Concilium alterum habes illuſmodi, Parliamento noſtro ſat diſſimile; Nam ſi pro Parliamentis hæc habueris, altiorem rei dabit originem Conqueſtor ipſe, qui Anno Regni ſui 19 Dom. noſtri 1086.

Mandavit

Mandavit ut Episcopi, Abbates, Comites, Barones, Vicecomites, cum suis Militibus (i. e. *Tenentibus in feodo militari*) *die Kal. Aug. sibi occurrent* Dearesbirie. *Quo cum venissent Milites illorum, sibi fidelitatem contra omnes homines jurare coegit.* Flor. Wigorn. in hoc Anno. *Ludunt qui Parliamenta nostra in his quærunt.*

A Sine ut Sodes dicam, collegisse me centenas (reor Conciliorum edictiones tenoresque ipsos plurimorum) ab ingressu *Gulielmi* I. ad excessum *Henrici* III. existentium, nec in tanta multitudine, de Plebe uspiam reperisse aliquid ni in his delituerit.

Gulielmus I. semel atque iterum ait se *concessisse*, &c. *per Commune Consilium totius Regni.* Char. Emendationum, p. 125. Et quod jam-jam citavimus de Vicecomitibus & Militibus evocatis ad fidei vinculum.

B

Gulielmus junior ita pariter, & de *Henrico* I. lis sub judice.

Stephanus Rex in Octavis Paschæ----tenuit Concilium *Northamptoniæ*, cui præsidebant *Eboracensis Episcopus Thurstanus, Episcopi, Abbates, Comites, Barones, Nobiles quinque per Angliam. Continuat. Florentii*, in Ann. 1138. p. 519. aut addenda videtur & Conjunctio, aut tollenda commâ, legendumque Barones *Nobiles*, & sic nihil
C Scrupuli.

Sed *Richardo* I. (Hyerosolimis militante) *Johannes Comes Moretonii*, frater Regis, & *Walterus Archiepiscopus Rothomagensis*, & *omnes Episcopi*, & *Comites*, & *Barones*, & *Cives Londonienses*, cum illis convenerunt in atrio Ecclesiæ S. *Pauli*. Et *totius Concilii Judicio*, Willielmus Elyensis *Episcopus à Regni* & *Cancellariæ regimine* deponitur, arduaque alia peraguntur. *Hoved.* in Ann. 1191. p. 701.
D & Epist. Hug. Covent. Episcopi, p. 703. Hoc tumultuarium videtur Concilium (quod Conciliabulum vocant) non legitimum.

E crepusculo jam in lucem veniamus, quam a tot viris doctis istud agitantibus argumentum, miror non intuitam; *Johannes* Rex haud dicam *Parliamentum*, (nam hoc nomen non tam emicuit) sed *Communis Consilii Regni* formam & coactionem perspicuam dedit, Chartaque sua (quam aliquando vidimus) Anno Regni sui 17. statuit
E observandum. Proferam ipsius verba, sed primo recitandus est præcedens illic Articulus, qui ad sequentium conducit explicationem.

----*Nullum* (inquit) *Scutagium* vel *Auxilium* ponam in Regno nostro, nisi per *Commune Consilium* Regni nostri.

1. Nisi ad corpus nostrum redimendum.

F

2. Et ad primogenitum filium nostrum Militem faciendum.

3. Et ad primogenitam filiam nostram semel Maritandam; Et ad hoc non fiat nisi rationabile Auxilium.

His

His dictis paulo inferius ait.---Et ad *habendum Commune Conſilium Regni* de *Auxiliis aſſidendis* (aliter quam in tribus caſibus prædictis) & de *Scutagiis aſſidendis*, *ſummoneri* faciemus *Archiepiſcopos*, *Abbates*, *Comites*, & *Majores Barones Regni*, ſigillatim per litteras noſtras. Et præterea faciemus ſummoneri in **generali** per *Vicecomites* & *Ballivos noſtros*, omnes *alios qui in Capite Tenent* de *nobis*, *ad certum diem*, ſcilicet *ad terminum* 40. *dierum ad minus*, & ad certum locum *in omnibus literis*, Submonitionis illius, *cauſam Submonitionis illius exponemus*; & ſic facta Summonitione, negotium procedat ad diem aſſignatum, ſecundum *Conſilium* eorum, *qui præſentes* fuerint, quamvis non *omnes Summoniti venerint*. A

Poſt ſuſceptionem **Plebis** in *Comitia Parlamentaria* ſenſim decerpitur **faſtigioſa** illa **Magnatum** poteſtas coercita, alias eorum in Tenentes imperio, & **lapata**, alias **Plebis** in eos **ſervitute**. Fit hoc ſtatutis plurimis, adeoque **labefactata** eſt **ſuperbia Procerum**, ut adverſus Regem nemo ſuſcitare auſus eſt, novorum quidpiam ſi de Regno non ageretur. Sed ecce novus jam **Leviathan** graſſari cæpit Liberata jam ab imperio dominorum, *offenſa ex quavis cauſa* **Plebs**, quæ *ad arma* hactenus, *abſque voluntate Dominorum nunquam convolant*; jam non habentes quibus audiant, in *graviſſimas* inſurgunt *rebelliones*, **quod** *ne ſemel unquam factum eſt anterius*. B

Upon the whole I obſerve, That many Records and Authorities cited in this Work, are to be found in Mr. *Petyt*'s Treatiſe; and that the Author of it, (as I am informed by ſuch as cannot but know it to be ſo) never ſaw above one or two of the Original Records he hath cited: And therefore it is much to be ſuſpected he had both the Deſign and Materials of his Book given him. C

I have in theſe Animadverſions, in ſeveral Inſtances ſhewn how Bold this Writer hath been in miſ-interpreting Hiſtories and Records, and how he hath abuſed them by ſubſtracting from them, and putting the remaining parts together with much artifice, for his own purpoſe, that by ſuch practices he might delude and draw his unknowing and unweary Readers into his Opinion. But either this Perſon, or another ſo like him in Temper, Fancy, and Scribling, as they cannot be diſtinguiſhed, hath out-done all men that ever put Pen to Paper, in either *willful* or *pretended Ignorance*, and open *Effronterum* in the Explanation of a Paſſage in *Gervaſe* the Monk of *Canterbury*, in the Reflections upon *Antidotum Britannicum*, &c. Printed 1682. with the Lord *Hollis* his Remains, p. 273. by which he would prove and aſſert the Right of all Free-men, or Free-holders, to come to, ſit, vote, and make Laws in Parlement: I will preſent him and the Monk in Parallel. D E F

The Reflections upon Antidotum Britannicum, p. 273, 274, 275.

IN the Sixteenth of *Henry* the Second, that King held his *Easter* Court-Baron at *Windsor*, as *Brompton* shews us, Col. 1060. n. 50. **Rex Cnuit Curiam suam** *in Solennitate Paschali.* Thither indeed were flockt most of the Nobility, *Fere omnes Regni Angliæ Episcopi & Magnates.*

But this being a *Curia de More*, an ordinary Court, which no more than Tenents in chief were obliged to take notice of, nothing of universal Obligation could then be established; wherefore from hence the King went to *London*, where, as that Historian says, *De Coronatione filii sui* Henrici *Majoris, & Regni sui Statutis, magnum celebravit Consilium.*

Gervasius Col. 1412. (as in his Margin) who lived in that time, acquaints us particularly with the Summons and Appearance thereupon. *Convenerunt interim Die Statuto, ex mandato Regis ad* Lundoniam *totius* Angliæ *Episcopi, Abbates, Comites, Barones, Vice-Comites, Præpositi, Aldermanni, cum fiae jussoribus suis.*

There assembled at *London*, according to the Kings Summons, the Bishops, Abbats, Sheriffs, the Heads of Hundreds and of Tithings, with all the **Frank Pledges** throughout *England*, unless the *fide jussores* answer the *Manucaptors.*

He says in his Margin, this Explanation is warranted by St. *Edward*'s Laws. *Habent etiam Aldermanni, in Civitatibus, & in Burgis Clausis, & Muro vallatis, & in Castellis, eandem dignitatem, &*

Chronica Gervasii, Col. 1410, 1411, & 1412.

A Brief and True Account of this great Meeting, which *Gervase* the Monk of *Canterbury* mentions, will discover the wonderful Ingenuity and Sagacity of this busie Writer.

In the year 1166. King *Henry* the Second went into *Normandy*, Chron. *Gerv.* Col. 1399. lin. 5. and there staid until the year 1170. when on the Third of *March* he landed in *England*, Ib. Col. 1410. lin. 1. &c. In his absence many Enormities, Exactions upon, and Extortions from the People had been committed, by his own Ministers and Bayliffs, by the Earls, Barons, Bishops, Abbats, or their Ministers and Bayliffs, and by the Sheriffs of Counties, and their Ministers and Bayliffs. For redress whereof, the King, *Convocatis* **optimatibus** *suis, instituit,* **Abbates & Clericos, Comites & Milites,** *qui circuirent terram, Dans formam inscriptam, quomodo eis esset agendum,* Ibid. n. 10.

In Cantiam, Suthreiam & Middelsexe, & Berkescire, & Oxenedfordscire, & Buckinghamscire, & Bedefordscire, *Missi sunt* **Abbas** *Sancti* Augustini Cantuariæ, **Abbas** *de* Certeseie, **Comes** *de Clara, Willielmus* **de Abrancis,** *Manesier* **Dammartin,** *Geroldus* **filius** *Radulfi, Gilebertus de* **Pinkeris.** *Willielmus* **filius** *Helt. Willielmus* **filius** *Nigelli, Willielmus* **filius Martini,** *Radulfus de* **Hospitali,** *Radulfus de* **Dene:** *Hi omnes simul supradictos Comitatus circuierunt. In hunc modum per alios Comitatus* **Anglie,** *Inquisitores missi sunt & hac inquirere debuerunt.*

In

& poteſtatem, & modum, qualem habent præpoſiti Hundredorum, & Wapentachiorum, Spelm. Gloſſ. *Tit. Aldermanus*. What warrant this can be for his Explanation, 'tis not, I think, poſſible for any man to find out. And then he goes on with his Explication, and ſays further: If this takes not in all the Freeholders of *England*, he knows not what will; for he that was no Pledge, or was no **Fidejuſſor**, was either an Out-law, or not his own man, but his that was to be anſwerable for him: But every Maſter of a Family, or **Freeholder**, that was within the Protection of the Laws, was one of the Frank-Pledges. And indeen *Brompton* tells us in expreſs Terms, that all the **Libere Tenentes Regni ſui**, all the Freeholders of the Kingdom were there, for they all ſwore Allegiance to the young King, as well as to his Father.

Omnes Comites, Barones, & **Liberos Regni ſui Tenentes**, *devenire homines novi Regis Filii ſui, ſibique ſuper Reliquias Sanctorum, Ligeantias & fidelitates jurare, Fidelitate ſemper nihilominus ſuâ ſalvâ*, Col. 1061. n. 10.

But if *Fidejuſſores* mentioned in *Gervaſius*, were no more than the *Manucaptores* which uſed to anſwer for the Appearance of them that were choſe to Repreſent the Counties, Cities, and Burghs in Parlement, then here is poſitive proof of ſuch Repreſentation of the Commons, as was in the times of *Edward* the Firſt, *Edward* the Second, and ſo downward; yet 'tis not improbable that the Pledges or *Manucaptors* for the Knights, Citizens and Burgeſſes choſe to Parlement were introduced long after this time, inſtead of the *Fidejuſſors*, or *Frank-pledges*, when that admirable ancient Polity, about Frank-pledges became

In primis exigent **Barones errantes, Vadium & Plegium**, *ab omnibus* **Vicecomitibus**, *qui fuerunt Vicecomites, poſtquam Rex transfretavit in* Normanniam, *& ab omnibus qui poſt terminum illum fuerunt* **Ballivi**, *&* **Miniſtri** *eorum, quamcunque Bailiam de illis habuerunt, & ab omnibus illis qui poſt Terminum illum,* **Hundredos Baronum**, *quos ipſi habent in Comitatibus, ſive illos habuerant ad* **firmam**, *ſive in* **Cuſtodia**, *quod erunt coram Domino Rege, Die, quem ipſi eis conſtituent, ad Rectum faciendum, & addretiabunt ei, & hominibus ſuis, quod addretiare debuerunt. Et ſi Vicecomites ante illos venire non poſſunt, mittant loco ſuo, qui pro illis reſpondeant, & illi Dent* **Vadium & Plegios** *ſufficientes pro Vicecomitibus, & ipſi ipſis, quod facient coram Domino Rege, hoc quod Vicecomites facere deberent, ad diem Conſtitutum poſtea capient Sacramentum, ab omnibus* **Baronibus, Militibus & Liberis hominibus** *de Comitatu, &* **ceteris hominibus**, *& ab omnibus* **Civibus, & Burgenſibus**, *quod verum dicent de hoc, quod ab eis inquiretur, ex parte Domini Regis, & quod non celabunt veritatem, neque pro alicujus amore, nec odio, nec prece, nec pretio, nec timore, nec pro aliqua promiſſione, nec pro ullâ re*, Ibid. n. 20, 30, 40.

After this follows eleven Articles of Inquiry, which were given to the Inquiſitors, as Directions of what they were to do, of which the eighth was this.

Omnes qui Rectati fuerint, de quocunque Recto, ponantur per vadium & per plegium, quod ſint coram Domino Rege, die quem eis ponent, & quod Rectum facient, & addretiabunt ei, & hominibus ſuis, quod addretiare debuerint. Et quibus plegii defuerint, cuſtodiantur, Ibid. Col. 1411. n. 40.

That

became impracticable, and was discontinued or broken, through the general corruption of Manners, which rendered it impossible for whole Neighborhoods to answer for one another, and through the Pride and Ambition of some who thought themselves above that Law.

And when the numbers of *Frank-Pledges* (had that happy Combination still been maintained) would, through the vast Multiplication of Proprietors, have been too great to assemble together, upon any occasion requiring Counsel and serious Debates.

There is one Difficulty which arises upon the examining this point of Antiquity; that is, since we rarely meet with Authorities, though some there be, which particularly describe such as Citizens and Burgesses, as summoned to, or present at the General Councils of the Kingdom; what shall we think of them?

To which I am bold to say, that even Citizens and Burgesses might have come under the consideration of **Freeholders**, *Inter liberos Regni Tenentes*, or, *Barones, Baronagium, Barnagium*, or the like: Thus far the Reflector.

In this Impertinent, Senseless, yet Seditious Explanation of the words of *Gervase* the Monk of *Canterbury*, he informs his Reader what he means by *Manucaptors*, in an Instance from a Bundle of Summons to Parlement 23 of *Ed.* 1. cited in his Margin, p. 274. of Sir *John Doyley* one of the Knights for *Northamptonshire*, his having two *Manucaptors* or Sureties bound for his appearance in Parlement according to Summons, which was in those times as common as the Elections. They

That is, And all which are any ways accused, shall give Security for their appearance before the King, upon the day appointed unto them, and that they shall do Right, and inform the King and his men of what they ought to be informed; and such as cannot provide Sureties, let them be committed to Prison. And then,

Facta hac inquisitione mirabili, omnes jussi sunt, ut essent coram Rege in Civitate Londoniæ, *decimo octavo Kalendarum* Julii, Ib. n. 60.

After this wonderful Inquisition was made, they were all commanded to be before the King in the City of *London*, on the 14th of *June*.

And then after all this, follow the words our Writer hath cited out of this Historian, and some others he hath concealed.

Convenerunt die Statuto, ex mandato Regis ad Londoniam *totius Angliæ Episcopi, Abbates, Comites, Barones, Vicecomites, Præpositi, Aldermanni cum fidejussoribus suis,* **Timentes valde omnes. Utique juxta conscientiam suam, metuebat, nescriebant enim quid Rex Statuere decrevisset.**

This last Sentence, and all the words from the word *Suis*, (our Fair-dealing Writer) hath concealed; as likewise this which follows in the next words: *Ipsa die* Henricum *Filium suum, qui eadem septimana de* Normannia *venerat, Militem fecit, statimque eum stupentibus cunctis, & mirantibus, in Regem ungi præcepit, & Coronari.* And a little further on, the Historian says, *Coronatus itaq; novus Rex, ex* **Præcepto** *Patris sui,* **Comitum & Baronum** *suscepit fidelitates, & sic* **timore** *culparum* **Deposito**, *omnes ad propria redierunt*, Ibid. Col. 1412. lin. 4. & n. 10, 20.

In

They were *Richard Bird*, and *William Ellis*.

And whether the *Fidejuſſors* mentioned by the Hiſtorian, were or could poſſibly be underſtood of *Decenners*, ſuch Frank-Pledges as were Members of the old *Saxon Decenna*, or Tithing, continued long after the Conqueſt, or of ſuch *Manucaptors* as theſe, the Judicious Reader will be beſt able to determine, when he hath conſidered this particular Story, and the words of the Monk.

In this Story we find there were Inquiſitors appointed to ſearch into the Crimes and Enormities of the Sheriffs and their Bayliffs and Miniſters in all Counties of *England*; likewiſe of the Kings Bayliffs and Miniſters, and the Bayliffs and Miniſters of the Earls, Barons, Biſhops, Abbats, *&c.* Alſo that by ſpecial direction, the Inquiſitors were to appoint ſuch as were accuſed, a day to appear before the King, and in the mean time to find Sureties for their appearance and behaviour: at the time appointed by the Kings Command, the Biſhops, Abbats, Earls, Barons, Sheriffs, Bayliffs, and Aldermen, (or *Reves*) of all *England* came to *London*, with their **Fidejuſſors** or **Sureties**, greatly fearing every one according to his Guilt, what the King would do with them, *&c.* This is a juſt Account of this great Meeting at *London*, and I leave it to all ſober Men, to conſider the *Ignorance*, *Temerity*, and *Factious Boldneſs* of this Scribler; and to judge, whether it be poſſible for any Man, but himſelf, to find out in the word **Fidejuſſors**, in this place of *Gervaſius*, the *Decenners*, (now in Leets called *Deciners*, *Diſners*, or *Deſners*) or the Ten Perſons with their Capital Pledge in every Tithing, that were Sureties for one anothers good behaviour; or the **Manucaptors** which were two or four Perſons bound for the Appearance of ſuch who were elected to ſerve in Parlement, according to the time limited in the Writ of Summons; or whether it be poſſible for any man juſtly, fairly, and honeſtly, to infer from the Paſſage he cites out of *Gervaſius*, that all the Freeholders of *England*, as now known and underſtood, (for that he muſt mean, or nothing) had or have Right to ſit in Parlement, or the General Councils of the Kingdom; and whether they, and the Citizens and Burgeſſes had or have Right to come to Parlements, under the Conſideration of **Barons**, **Baronage**, or **Barnage**. They are his own words, and this is the Way and Genius of the Man, through all his Seditious Scriblings.

A *FULL*

ANSWER

To all the

PARTICULARS

Contained in a

BOOK,

ENTITULED,

Argumentum Antinozmanicum,

OR AN

ARGUMENT

Againſt the ASSERTION, That

William the Firſt

CONQUERED

ENGLAND,

And Governed as a

CONQUEROR;

And alſo to what Sir *Edward Coke*, Mr. *Selden* and others have ſaid upon the ſame Subject.

In which the Partiality and Ignorance, or Diſingenuity and ſlye Practices of this Writer, and the Miſtakes of others are detected, and many dark Paſſages of Hiſtory and Antiquity, commonly miſtaken and miſunderſtood, are Explained, and their true Meaning Diſcovered.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes*, over againſt *Exeter-Exchange* in the *Strand*. MDCLXXXIV.

AN ANSWER TO A BOOK ENTITULED, *Argumentum Antinormanicum*, &c.

THis Book is for the moſt part the *Preface* to Mr. *Petyt*'s *Rights of the Commons Aſſerted, &c.* put into a *new Method*, and that *Preface* is collected out of the ſeveral *Prefaces* to Sir *Edward Cokes* Third, Fourth, Eighth, and Ninth *parts* of his Reports, or Mr. *Seldens Diſcourſe upon* this Subject in the (1.) *Review* of his *Hiſtory* of *Tithes*, tranſcribed in this Book from *pag.* 37. to 46, as may appear to any one that will take the pains to compare them.

(1.) *pag* 481, 483, 484.

The Method he here uſeth (for 'tis the ſame Author ſtill in Maſquerade) is propounding and anſwering four Queſtions.

The firſt Queſtion is, *Page* 4.

Whether *William* Duke of *Normandy* (who was afterwards *William* the Firſt) *got the Imperial Crown of* England *by the Sword, and made an abſolute Conqueſt* of the *Nation* at his *firſt* Entrance.

The Queſtion not truly ſtated.

This *Queſtion* is not truly ſtated, for it ought not to be put, whether at his firſt Entrance or Invaſion he obtained the Crown by the Sword, *but whether in proceſs of time, and by degrees, he did not by force and artifice, make an abſolute Conqueſt of the Nation?* For we are not ſo much to *Conſider* what he did upon his *firſt Invaſion* of *England*, or for ſome ſhort time after, as to *take notice* of his *Eſtabliſhment*, and *Government*, when it was *wholly* under his *power*, and that by the daily *acceſſion* of *Normans* or other *Foreigners*, and by *building* very many *Caſtles* and *Forts* in all parts of the *Nation*, and placing *Gariſons* in them, he had *ſecured* himſelf and thoſe that came with him.

We ſeldom, or never read of any one who deſigned to Conquer a Nation or People, that told them before hand, that he would *deprive* them of their Eſtates or Fortunes, *give* them new *Laws*, or *abridge* their *Liberties*, eſpecially if he had any pretence of a Title,

as Duke *William* then had to *England*, the (3.) Donation and Grant of *Edward* the Confeſſor, *confirmed*, or at leaſt *allowed* by the *Popes* incouraging and ſending him a (4.) Banner.

(3.) *Gul. Pict. f.* 191. A. B. *Ingulph. f.* 511. *b. n.* 40. *Selden* in his Review of Tithes ſays this Donation was a lawful Title, p. 482.

(4.) *Pictav. f.* 197 *C. Ingulph. f.* 512. *a. lin.* 7.

Hence it was that *Guilielmus Pictavienſis* firſt, and *Ordericus Vitalis* from him, do ſometimes report *William* the *Conquerors ſmooth behaviour* toward the *Engliſh*, and his equal and juſt dealings with them, upon his firſt Entrance into the Kingdom, and four or five years afterward. A

(5.) *f.* 207. C. D. 208. A. B.

The Juſtice and Equity of the Conqueror at his firſt Entrance.

Pictavienſis (5.) ſays, after he was at *Chriſtmaſs* Crowned at *London*, he ordered many things *prudently*, *juſtly*, and *mildly*, ſome to the *profit* and *dignity* of that *City*, ſome to the *advantage* of the *whole Nation*, and other ſome to the *benefit* of the *Churches* of the Land; *whatever Laws he Dictated, he Eſtabliſhed with Excellent Reaſon.* No Perſon in any Matters asked of him right Judgment, he Condemned none, unleſs ſuch as it had been a Sin not to have Condemned, with *gravity* he Commanded things worthy of themſelves to be performed by his Prime Men, and diligently perſwaded them to *Equity*, that they ſhould have continually before their Eyes, the *Eternal King*, by whoſe *power* they overcame, that the *Conquered* ought not *too much* to be *oppreſſed*, being *equal* to their *Conquerors* in the *profeſſion* of *Chriſtianity*, leſt by Injuries they ſhould *force* thoſe to *Rebel* whom they had *juſtly* ſubdued. He prohibited *Sedition*, *Slaughter*, and all *Rapine*, reſtraining the People with *Arms*, and Arms with Laws; He impoſed Tribute, and every thing that was to be paid into the Exchequer moderate, and without Grievance; *Thefts*, *Intruſions*, Evil Doings were not *allowed* in his *Territories*, the Ports and all Paſſages were open to *Merchants* and *Traffiquers*, and he commanded they ſhould receive no Injury, (6.) ſo the beginning of his *Reign* was altogether fair and juſt. The *Latin*, whereof this is a *Tranſlation* word for word, is *Tranſcribed* by (7.) *Ordericus* out of *Pictavienſis*, and is Cited by this Author from *Ordericus*, *pag.* 89. of which he gives only the ſenſe, and wreſts it to his own purpoſe, *pag.* 91. or as it is falſe Printed 41. B C D

Minimum opprimi victos non oportere victoribus profeſſione Chriſtiana pares.

(6.) *Ibidem.*

(7.) *f.* 505. C. 506. A.

His Artifice.

These *Actions* of the *Conqueror* were all *Artifice* to make the *Engliſh* ſecure, while he did his own *Buſineſs*, for immediately after this, both theſe Authors Report (8.) that *William left* the *City*, and ſtaid ſome time at *Barking* in *Eſſex*, until certain *Caſtles* and *Forts* were finiſhed *in* the *City*, to keep the People in ſubjection, and that from thence he went into *other parts* of the Kingdom, and ordained things profitable for himſelf and the Inhabitants. And appointing *Truſty* and *Stout Frenchmen Governors* in his *Caſtles* which were *Gariſoned*, with many Horſe and Foot, in *March* following he *paſſed* into *Normandy*, taking with him as Hoſtages *Stigand* the *Arch-Biſhop*, *Edgar Atheling*, the three *great Earls*, Edwin, Morcar, and Waltheof, with very many others of the Chief *Nobility* for the *ſecurity* of his *New* Conqueſts. E F

(8.) *Ibid.* B. C. & *Pictav. f.* 208. B. 209. B. C.

(9.) *Ibidem.*

(1.) *f.* 208. C.

They (9.) both further ſay, he gave the *Governors* of *Caſtles* great *Eſtates* in *England*, and (1.) *Pictavienſis* adds theſe words to his Report, *Nulli tamen Gallo datum eſt Quod Anglo cuiquam injuſte fuerit ablatum.* That no *Frenchman* had any thing given him which was *unjuſtly* taken from an *Engliſhman.*

Ordericus

Ordericus that moſt commonly Tranſcribes not only the Matter but the words of *Pictavienſis*, omits this paſſage, as knowing it not to be according to truth, for although he was (2.) *Chaplain* to the Conqueror and wrote his Acts, *ſuch* as *he ſaw*, and *was preſent at*, yet (3.) through *croſs Events* was hindred writing the whole Life of this *Duke* and *King*, and brought his *Hiſtory* no farther than the year 1070. as *Ordericus* in that year tells us. 4. *Hic uſque Gulielmus Pictavinus Hiſtoriam ſuam texuit in qua Gulielmi Geſta ſubtiliter & Eloquenter Enucleavit.* And ſo far as he wrote *Ordericus* Tranſcribed, interpoſing ſome things of his own, though now we have nothing further of this Hiſtory after the (4.) *death* of *Earl Coxo*, which happened in the (5.) year 1067. ſo that both *Pictavienſis*, and *Ordericus* in what he reports from him are *incompetent* Witneſſes of Duke *Williams Eſtabliſhment* in *England*, it being for the greateſt part made and perfected *after the time* of *Pictavienſis* his Writing.

(2.) *Orderic. f.* 503. D. 504. A.
(3.) *Ibidem.*
(4) *Pictav. f.* 212. D. 213. A.
(5.) *Order. f.* 509. A.

And whatſoever theſe *Hiſtorians* ſay of *William* the Firſt in the *beginning* of his Reign, who ever *attends* to his *Actions*, (6.) *as drawing his Army about* Weſtminſter *Abby on the day and the time of his Coronation, his building Fortreſſes and Caſtles within the City of* London, *and placing* Norman *Gariſons and* French *Governors or Caſtellanes in the Caſtles in the Country, and giving them great Eſtates, his carrying the Chief of the* Engliſh *Nobility with him as Hoſtages into* Normandy, *(which was but an honourable Impriſonment) and his Dictating Laws*, cannot but *believe*, he intended to *Rule* as a *Conqueror* and by the *Sword* from the very beginning.

(6.) *Pictav f.* 206. A.

William at firſt acted like a Conqueror.

This in general is a *ſufficient Reply* to what this Author hath ſaid in the *ſolution* of his *firſt* Queſtion, but foreſeeing he will by another *Method* and another *Title* make a new Book of the *ſame Materials*, if all his trifling Inſtances be not refuted, I ſhall particularly conſider what he hath ſaid in verification of his Anſwer to it.

He ſays *William* laid a far *greater ſtreſs* upon his *Claim* and *Titles* to this Kingdom, than ever he did upon his *great* and *mighty Conqueſt*, which he affirms to be evident from the Particulars following.

Antinorm. p. 5.

Firſt, In that before his Conqueſt, *when the People had choſen Harold*, the Son of *Earl Godwin*, for their King, after the death of *Edward* the *Confeſſor*, and had put aſide *Edvard Ætheling*, by right of *Blood* and *Inheritance* Entitled to the Crown. This *Norman Duke* made his loud Complaints of the *Injuries* done him in not *Electing* him, for he was *Coſen German* to the *Confeſſor* who *died* without Iſſue, and therefore pretended the Right truly devolved upon him.

Ibidem, & jus Angl. ab antiquo, p. 38.

What is here ſaid concerning the choice of *Harold*, and inſinuated on purpoſe to abuſe unwary Men, and cheat them into a belief that this is an Elective Monarchy, is not true, if we may credit the beſt Hiſtorians, and ſuch as lived neareſt the matter of Fact. *Pictavienſis* tells (6.) us, That *perjurus Haraldus Regium Solium cum plauſu occupavit, quibuſdam iniquis faventibus.* Perjured *Herald uſurped* the Royal Throne, a few wicked Perſons favouring him. (7.) *Ingulphus*

Harold was not Elected King.

(6.) *f.* 196. D.

(7.) *f.* 511. *b. n.* 50.

gulphus says, *Throno regio se intrusit.* That he thrust himself into the Royal Throne. (8.) *William* of *Malmsbury* reports, That *Extorta a Principibus fide, arripuit Diadema, quamvis Angli dicunt a Rege Edwardo Concessum. Quod tamen magis Benevolentia quam Judicio allegari Existimo* (saith the same Historian) *ut illi Hæreditatem transfunderet suam, cujus semper suspectam habuerit potentiam.* Having extorted an Oath of Fidelity from the Principal Men of the Nation, he seized the *Diadem*, although the *English* Report, it was given him by King *Edward*, which yet was (as *Malmsbury* thought) alledged rather out of *kindness* to *Harold* than *belief*, or *judgment*, that he should transfer his *Kingdom* or *Inheritance* to him, whose *power* he always *suspected.* With these agrees *Hen.* of *Huntingdon*, whose words are, (9.) *Haraldus viribus & genere fretus, Diadema invasit. Harald* by *force* and the *assistance* of his *Relations* and *Kindred* invaded the *Crown.* * This is *Testimony* enough to shew that *Harold* was not Elected; and though *Florence* of *Worcester* says he was *Elected*, yet he could mean no other thing by it, then that he was received, and submitted to as King. Or, that as these five Historians (two whereof were *living* when the thing was done, and two of the other not long after) do report, that he *set* the *Crown* upon his own Head by *force*, *fraud*, and the *assistance* of his powerful Kindred and Friends. His words are these, (1.) *Rex Edwardus Epiphaniæ Domini vigilia, mortem obiit Londoniæ, & in Crastino sepultus, Regio more, Quo tumulato, Subregulus Haraldus, Godwini Ducis filius, quem Rex ante suam Decessionem, Regni successorem Elegerat, a totius Angliæ primatibus, ad Regale Culmen Electus, die eodem ab Aldredo Eboracensi Archiepiscopo in Regem est honorifice Consecratus.* We find in this Relation, that *Edward* the *Confessor* died on the *Eve* or *Vigil* of *Epiphanie*, and was buried the *next day*, being the Feast of *Epiphanie*, and that on the *same day Harold* (according to this Historian) was *chosen* and *Crowned* King by the Prime Men of all *England.* These *must* be such only as *were* about the *Court*, and no others, it must be also a *Faction* that *set* him up, or rather *assisted* him in *setting* up himself, for it can never be imagined that the *People* could have *notice* all *England* over to *come* to, or *send* their *Representatives* to such a *Solemnity*, and that the *Election* should be made, and the *King Crowned* in the *space* of twenty four hours; and therefore if it should be *granted*, that he were *chosen*, the *People* never did *choose* him, as this Author insinuates, nor so *much* as had *notice* of, or did know of his Election, so that they only received, and submitted to him as their King.

(8.) *f.* 52. *b. n.* 30, 40.

(9.) *f.* 210. *b. n.* 10.

* *Rex Heraldus Secundus Godwini filius hoc Regnum sibi temere usurpavit. Paris, in vit. Abb. f.* 45. *n.* 20, 30. King *Harold* the second Son of *Godwin*, rashly usurped to himself this Kingdom.

(1.) *f.* 633. A. D. 1066.

The same words hath (2.) *Simeon Dunelmensis* (who is an exact Transcriber of *Florence*) save that in *stead* of *primates*, he useth the word *principes*, which is of the same signification; and what he *meant* by *primates*, we are taught by the same Author in the year following. (3.) *Advenient Quadragesima Rex Gulielmus Normanniam repetiit ducens secum Dorobernensem Archiepiscopum Stigandum, Glastoniensem Abbatem Agelnothum, Clitonem Edgarum, Comites Eadwinum, & Morcarum Waltheofum Siwardi ducis filium, Nobilem Satrapam, Agelnothum Cantuariensem, & multos alios de* Primatibus *Angliæ.* In *Lent* King *William* returned into *Normandy*, carrying with him *Stigand* Arch-Bishop of *Canterbury*, *Agelnoth* Abbat of *Glastonbury*, Prince *Eadgar*, the Earls *Edwin* and *Morcar*, *Waltheof* Son of Duke *Siward*,

(2.) *Col.* 193. *n.* 30.

(3.) *Flor. Wigorn. f.* 635. A. D. 1067.

Siward, *Agelnoth* the Noble Earl of *Kent*, and many others of the *Prime* Men of *England*; Amongſt *theſe*, and ſuch as *theſe Primates*, were no *Commons*, and therefore the *People* (in this Gentlemans *ſenſe*) did not Elect him, nor can it be any ways proved, (by any *Perſon* that would *make* this an *Elective Monarchy*) that he was ever *Elected* according to the *genuine*, and *juſt meaning* of that word, for which ſee the *Gloſſary*.

A

Nor is it leſs untrue that the Kingdom truly *devolved* upon *William* by *right* of *Blood*, if he had not been a *Baſtard*; for he had no other *pretence* of right that way, then by *Emme*, who was *Siſter* to *Richard* the Second Duke of *Normandy*, and *Aunt* to his Father *Robert*; and the *Relation* ſhe had to the Kingdom of *England* was only by *being Queen* to *King Ethelred*, and afterward to *Cnute*, and Mother to *Edward* the *Confeſſor*.

Antinorm. p. 5.

The Kingdom did not devolve upon *William* by Right of Blood.

B

Secondly, Certain it is, that the *Confeſſor named* him his *Succeſſor* ſome time before he died, and that (4.) he ſent over *Robert* Arch-Biſhop of *Canterbury* to *inform* him that he had done it; but we will paſs over this pretence, until we come to his 18, and 19 Pages, where it will be more aptly taken notice of.

Antinorm. p. 6. & 18.
(4.) *Ingulph. f. 511. b. n. 40.*

The third Particular, by which he would make it evident that *William laid* a far greater *ſtreſs* upon his *Claim* and *Title* then his *Sword*, is the *unkind Anſwer* that *Harold* returned to *William*, when he *ſent* to him to *demand* the Kingdom according to King *Edwards* Donation, and after what manner he raiſed an Army and won the *Battle* of *Haſtings*, in which *Harold* loſt both his *Life* and *Crown*. This is indeed a *Particular* much to the purpoſe, but let it be never ſo *ridiculous* and *abſurd*, yet there are two *Citations* in the Story, which *ſeem* to favour another *fancy* of this Authors about the *ancient Rights* of the *Commons*, *&c.* and for the ſake of them he framed it.

C

D

Antinorm. p. 6.

Ibid. p. 8, 9.

The firſt is the Anſwer (5.) which *Harold* ſent Duke *William*, cited out of *Malmſbury*, *f.* 56. *a. n.* 20. when he was preſſed with the Oath he had made to him to aſſiſt him in obtaining the Kingdom after the Confeſſors death, in theſe words, *De regno preſumptuoſum fuiſſe Quod abſque generali Senatus & populi Conventu & Edicto, alienam illi hæreditatem Juraverit, proinde ſtultum ſacramentum frangendum.* Concerning the Kingdom it was a preſumptuous thing in him to Swear to give Aſſiſtance to obtain another Mans Inheritance, without a general Convention and Edict of the Senate and People, and therefore a fooliſh Oath was to be broken.

E

(5.) *Antinorm. p. 6.*

This *laſt Clauſe* of the *Anſwer* he hath *omitted*, and for what reaſon, it will preſently appear; and truly he might have omitted the whole, as no ways proving the Commons to have had any ſhare at that time in the Government, if he had conſidered what hath been ſaid upon this very Paſſage in the Anſwer to Mr. *Petty*, *pag.* 16. or what he himſelf hath ſaid in this Book, *pag.* 31. *partially* cited out of *Mat. Paris* writing of the Title of *William* the Conqueror; *Dicitur* (6.) *tamen quod beatus Edwardus, eo quod hærede caruit, Regnum legavit Willielmo Baſtardo Duci Normanicorum*, and cites no more, the next words being *Sed robore caruiſſe aſſeritur, quia fecit in lecto lethali,*

F

(6.) *f.* 941. *n.* 50.

&

& ſine Baronagii ſui aſſenſu Comuni. Theſe laſt words of *Paris* do Expound and give us the meaning of thoſe of *Malmsbury, abſque generali Senatus & Populi Conventu & Edicto.* That is, without the common aſſent of the Clergy and Laity, or the Baronage of *England* of both Orders; thoſe words of *Malmsbury,* and the other of *Paris* being ſpoken upon the ſame occaſion.

Antinorm. p. 8. And for no other *end,* he tells us by what means *William* raiſed his *Army* with which he *ſubdued Harold* and the Nation: his Author is (7.) *Verſtegan* in his *Reſtitution* of decayed Intelligence, who ſays the greater *part* of the *Nobility* and *People* were *unwilling* to aſſiſt *William* in this Enterpriſe. But at length the Duke whoſe Head was filled with Ambition, ſo much *prevailed* in *his Aſſemblies* of the *three Eſtates,* which *conſiſted* of the *Clergy, Nobility,* and *Commons,* that the *Nobility* promiſed to *ſerve* him, and the *Clergy* and *People* to aid him with Money, according to their ſeveral abilities; and ſuch Offers as they made, were forthwith ſet down in Writing, by a *Secretary* there preſent. Here our Author ſtops, and had no mind to go on with *Verſtegan,* who in the next words ſays, that *Odo* Biſhop of *Bayeux* accorded to *furniſh* him with *forty* Ships, the *Biſhop* of *Meins* with *thirty,* and others according to their benevolent minds; then began he to deſire *Ayd* of the *Princes* his *Neighbours,* as of the *Earls* of *Anjou, Poictou, Du Main, Ponthieu, Boulonge,* and *others,* promiſing to *give Land* unto every of them in *England,* if he *Conquered* it, according to their Qualities. And in the next (8.) Pages he further writes, that *Alan Fergant* Duke of *Britan,* the Lord of *Tovars,* the Son of the Lord *Bertram* of *Dignam, Raoul* of *Gayel,* and other Barons and Gentlemen, as well of *Normandy,* as other parts, came in great numbers of their own accord, ſome of them *required Wages* and good *furniture,* others demanded but their Paſſage, and to *take* in *recompence* of their *Service,* what *they could get* in *England,* one demanded a *Caſtle,* another a *Town,* and ſome contented themſelves with the promiſe of having ſome good Lady or Gentlewoman in Marriage, and unto the Requeſts of every one of them the Duke accorded. This is full Evidence indeed, that *William* did not intend to Rule as a Conqueror; but let us ſee what the *three Eſtates* were with whom the Duke conſulted about this Expedition, (for this Story was drawn in, meerly to countenance the fancy of the ancient Rights of the Commons, *&c.*) *Pictavienſis* who was in this Action with him, tells us, (9.) that very many of the *great Men* of *Normandy, diſſuaded* the Duke *from* the *Enterprize,* as a thing too *difficult,* and above the *power* of *Normandy*; that there were then in that Country, beſides *Biſhops* and *Abbats,* Men moſt *Excellent* in *Council* and *Advice* of the Lay Order, *Robert Earl* of *Moreton* or *Mortaign, Robert Earl* of *Owe, Richard Earl* of *Eureux, Roger de Bello-Monte,* or *Beaumont, Roger de Monte Gomerico,* or *Montgomerie, William Fitz-Oſbern,* and *Hugh* the *Vicount.* With theſe * *only* he *adviſed,* who readily *complied* with what he propounded, and by their *example,* incouraged all *Normandy,* to *provide Ships, Men, Arms,* and all things neceſſary for War, *Convenit etiam in auxilium Miles Copioſus Externus,* there came alſo into his Service great ſtore of Foreign Soldiers, and he kept 50000 at his own Charge a Month, being Wind bound in the Port of *Dive.* I believe our Author, though he ſhould uſe *Verſtegans* Spectacles, could hardly find any Commons in this Conſult.

(7.) p. 173.

(8.) p. 174, 175.

(9.) *f.* 197. A. B.

* *Ibidem.*

Our

Our Author ſays next, That the Duke was no ſooner landed with his Army, but by his *Proclamation*, he declared upon what occaſions he thus entred the Realm, and ſo preparing to give *Harold* Battle, he hereby ſeemed, as if he would have all the World to know, his Quarrel was more Perſonal, than National, and that though he was Victorious over *Harold*, he was no abſolute Conqueror. *Antinorm. p.* 9, 10, 11.

A

This Argumentizer ſhould (to have made this Story more plauſible) have cited this Proclamation, or told us where to have found it, but if he had, it would not have ſignified much as to the Credibility of the Matter in Controverſie, for how many *Declarations*, *Proclamations*, *&c.* was there ſet forth in this Nation between 30 and 40, and 20 and 30 years ſince, by deſigning Men of ſeveral *Factions*, whoſe *Principles* are at this preſent, *forging*, *hammering*, and *dreſſing* up again, yet not one ſyllable of them made good; for the *Declarations* and *Pretences* of ſuch Men, and indeed all ſlie *Innovators*, are but *Coverings* and *Shadows* to *cheat* the People, nor do they ever *oblige* them, when they have opportunities to advance their Deſigns. Deſigning, obſerve not their own Declarations.

B

Again, If his *Quarrel* was only *Perſonal*, and that he intended only to *Conquer Harold*, and *not* the Kingdom, I deſire our *Logician* to tell us, when he was ſlain, and the Battle obtained againſt him, why he did not *disband* his Army and make good his Proclamation? Or, why he did on the contrary *build Caſtles* and *Cittadels* in *London*, and in very many other convenient places in *England*? Why he put *Norman* or *French Gariſons* and Governors into them? And, why he oftimes ſent for freſh Forces out of ſeveral Nations? Why he appointed *Odo Biſhop* of *Bayeux*, and *William Fitz-Oſborn*, both *great Normans*, his *Juſticiaries* or *Lieutenants* to Govern the Nation when he returned into *Normandy*, and carried with him all the *Prime Saxon Nobility*, within leſs then ſix Months after this very Battle. *Williams* Quarrel was not Perſonal againſt *Harold* only.

C

D

He proceeds, and from King *Williams Coronation Oath*, he will prove what he hath ſaid, to which he may eaſily receive an Anſwer from an *Engliſh* Proverb, That there is *never an Oath*, *but is either broken or kept*; and his proof from the Conquerors taking an Oath, ſignifies nothing, unleſs he can alſo *prove* that he *kept* it. More Conquerors than one, have uſed *fair pretences*, and made *ſmooth* promiſes, and dealt cunningly with the People, to carry on their Deſigns, and have at firſt *taken* plauſible Oaths, and *broken* them afterwards; nay *took* them, when they *intended* not to keep them, and knew they could not; and for *Oath-breaking*, *Harold* in his Anſwer to him when he demanded the Kingdom had given him an Example, That *Stultum Sacramentum eſt frangendum*, a fooliſh Oath is to be broken: and that is the reaſon this Author omitted theſe words in the Anſwer of *Harold* to *William* before mentioned, leſt it ſhould have defeated the force, and conſequences of the Dukes Oath, which he intended to make uſe of, in favour of his Aſſertion. The Conquerors Oath no Argument to prove he was not a Conqueror.

E

F

Many Specious *Oaths*, *Proteſtations*, *Vows*, and *Covenants* were contrived and taken by Crafty and Deſigning Men in the times

A Digreſſion about the *Scotch* Covenant, &c. and the Rebellion raiſed thereupon.

before mentioned, and impoſed upon the People, contrary to the *Oaths* of *Allegiance*, they had before taken, for no other *ends* than to *cheat* them into Rebellion, and make them the Authors of their own Slavery, which was diſcovered too late, and when they were under the power of an Army, and could not help themſelves.

The ſame Parliament, (as they called themſelves) the very ſame Lords and Commons, or at leaſt the leading and prevalent Party, and *Oliver Cromwell* and many of his *Caball* into the bargain, that lifted up their hands in the *preſence* and *fear* (as they pretended) of Almighty God, and ſwore to and ſubſcribed (when they wanted the aſſiſtance of the *Scots* in the year 1643.) the *Covenant* ſent out of *Scotland*, which in the year 1646. when the Kings *Forces* were *beaten* out of the Field, and moſt of his Gariſons reduced, and he himſelf forced to fly to the *Scots* Army, and they in a condition to keep in ſubjection the Nation, and drive the *Scots* out of it, they *interpreted* according to their own ſenſe and advantage, quite contrary to the *ſenſe* and *meaning* was *intended* by the *Contrivers* of it, and as the very ſame Men at firſt *accepted* and *received* it. A B

(1.) Propoſitions of the Parliament of *England* to be preſented to the Aſſembly of *Scotland*, &c.

In the year 1643. when they were in a *low*, and the King in a *flouriſhing* condition and like to be ſucceſsful, on the Tenth of *Auguſt both Houſes* did deſire the *Reverend Aſſembly* of *Scotland* to lay ſeriouſly to heart, the *ſtate* and *condition* of their *Siſter Church* and Kingdom, and not *only* by their *prayers* to aſſiſt in thoſe Straights, but *alſo* by ſuch *ſeaſonable* and *effectual* Means, as to them ſhould ſeem meet, to *further* and *expedite* the preſent *aid* and *aſſiſtance* demanded by both Houſes; and their *Commiſſioners* were to make known unto them, that they were *deſigned* and *ſent* by both Houſes, to the *general Aſſembly* of the *Church* of *Scotland*, to *propound* to them, and *conſult* with them, concerning *ſuch things* as might *conduce* to their own *Reformation*, and their *ſo much deſired Conjunction* with that Church. C D

Religion the the ſtate of the Caſe between the King and both Houſes.

The two Houſes at *Weſtminſter* deſire the *Scotch* Church Government, &c.

And in their *Propoſitions* delivered to the *Aſſembly* on the Fifteenth of the ſame month and year, they *affirm* the *true ſtate* of the Cauſe, between the *King* and *both Houſes*, was *Religion*, in the *Reformation* whereof they were, and had been ſo *forward* and *zealous*, as that there was not *any thing expreſſed* unto them by their *Brethren* of *Scotland*, in their *former* or *latter Declarations*, which they had not *ſeriouſly taken* to heart, and *ſeriouſly endeavoured* to effect, that *ſo* the *two Kingdoms* might be brought into a *near Conjunction*, in *one form* of *Government*, *one Directory* of *Worſhip*, one *Catechiſm*, &c. and the *foundation laid*, of the *utter extirpation* of *Popery* and *Prelacy* out of *both* Kingdoms. The moſt *ready* and *effectual means* whereunto, they conceived to be, that *both Nations enter into a ſtrict Union* and *League according* to the *deſire* of the *two Houſes* of Parliament. E F

The form of the Covenant agreed.

On the Seventeenth of the ſame Month the *form* of the *Covenant*, to be entred into *by both Nations* was agreed *unto* by the *Committees* of *Eſtates*, and of the *general Aſſembly* of *Scotland*, and the *Commiſſioners* of the Parliament of *England*, and then it was *ſent* from *Scotland* into *England*, and *returned* again.

By

By *Directions* of both *Houſes*, the *Aſſembly* of *Divines* in *England* were great *Inſtruments* in *prevailing* with the *general Aſſembly* in *Scotland*, and wrote ſeveral *Canting*, *Enthuſiaſtick*, *Hipocritical Letters* to them, as that of *Aug.* 4. at *Weſtminſter*, 1643. *&c* who were called together by ſpecial Contrivance, and the Men *pickt* out on purpoſe to *pleaſe* the *Kirk* and *Brethren* of *Scotland*.

The Aſſembly of Divines Canting, Hypocritical Letters to the general Aſſembly of *Scotland*.

A The Propoſitions of *Treaty*, or *rather* of *Englands Yoak* and *Slavery* were agreed upon, and the *Scotch Covenant Received* as it was *ſent* from *Scotland*, and the *Articles* Signed the Twenty ninth of *November* 1643. at *Edinburgh*, in which it was agreed and concluded, That the *Covenant repreſented* to the *Convention* of *Eſtates* and *general Aſſembly* of *Scotland*, and *ſent* to *both Houſes* of the Parliament of *England* in the *ſame form* as it was returned, from the *two* Houſes of Parliament to their *Brethren* of *Scotland*, and *allowed* by the *Com-*
B *mittee* of *Eſtates*, and *Commiſſioners* of the *general Aſſembly*, be *ſworn* and *ſubſcribed* by *both Kingdoms*, as a moſt *near Tie* and *Conjunction* between them, for their *mutual defence* againſt the *Papiſts* and *Prelatical Faction*, and their *Adherents* in both Kingdoms, and for *purſuance* of the *Ends* expreſſed in the ſaid Covenant.

The *Scotch* Covenant received as ſent from *Scotland*.

Article I.

That an *Army* to this purpoſe ſhould be forthwith *levied*, conſiſting of 18000 Foot, 2000 Horſe, and 1000 Dragoons, *&c.* to have
C 100000 *l.* advance, and to be *paid* 30000 *l.* monthly *out* of the *Eſtates* and *Revennes* of the *Papiſts*, *Prelats*, *Malignants*, and their *Adherents*, or otherwiſe; and if the *States* and *Kingdom* of *Scotland* ſhould *demand further ſatisfaction* of their *Brethren* of *England*, when the *Peace* of both Kingdoms ſhould be *ſetled*, *for their pains*, *hazard*, and *charges*, *&c.* they ſhould have *due Recompence* made unto them, *out of ſuch Lands* and *Eſtates* of the *Papiſts*, *Prelats*, *Malignants*, and their *Adherents*, as the *two Houſes* of Parliament of
D *England* ſhould think fit.

Article II. and V. An Army of *Scots* to be raiſed in purſuance of the Ends of the Covenant.

To be paid out of Papiſts, Prelats, and Malignants Eſtates, *&c.*

That no *Ceſſation*, nor any *Pacification*, or *Agreement* of *Peace* whatſoever, ſhall be made, by *either* Kingdom, or the *Armies* of *either Kingdom*, without the *mutual Advice* and *Conſent* of both Kingdoms, or their Committees in that behalf appointed, who are to have full power for the ſame, in caſe the Houſes of Parliament in *England*, or the Parliament or Convention of Eſtates in *Scotland* ſhall not ſit.

Article VIII.

A Committee to have the power of Parliament when they ſit not.

E The Covenant it ſelf had this Title. *A Solemn League and Covevenant for Reformation and Defence of Religion, the Honor and Happineſs of the King, and the Peace and Safety of the three Kingdoms of* England, Scotland, *and* Ireland

The Title of the Covenant.

The firſt, ſecond, and third Articles of the Covenant were, That they which did take it, ſhould *ſincerely*, *really*, and *conſtantly*, through the Grace of God, endeavour in their ſeveral places and callings, the *preſervation* of the *Reformed Religion in the Church of Scotland*, in
F *Doctrine*, *Worſhip*, *Diſcipline*, and *Government*, the *Reformation* of *Religion* in the Kingdoms of *England* and *Ireland*, in *Doctrine*, *Worſhip*, *Diſcipline*, and *Government*, according to the *Word* of God, and the *Example* of the *beſt Reformed* Churches: and ſhould endeavour to bring the *Churches* of God in the three Kingdoms to the *neareſt Conjunction*, and *Uniformity* in *Religion*, *Confeſſion* of Faith, *Form* of *Church Government*, *Directory* for *Worſhip* and *Catechizing*.

The Contents of the Covenant.

Secondly, That they ſhould without *reſpect* of Perſons, endeavour the *Extirpation* of *Popery*, *Prelacy*, (that is *Church Government* by *Arch-Biſhops*, *Biſhops*, *Deans*, and *Chapters*, *Arch-Deacons*, &c.) *Superſtition*, *Hereſie*, *Schiſm*, *Profaneneſs*, and whatſoever ſhould be found to be *contrary* to ſound Doctrine and the *power* of Godlineſs.

Thirdly, That they ſhould with the ſame *ſincerity*, *reality*, and *conſtancy*, in their ſeveral *Vocations* endeavour, with their *Lives* and *Eſtates*, mutually to preſerve and defend the *Kings Majeſties Perſon* and *Authority*, **in the preſervation and defence of the true Religion and Liberties of the Kingdoms**, that the World might bear *Witneſs* with their *Conſciencies* of their *Loyalty*, and that they had no *thoughts* or *intentions* to *diminiſh* his Majeſties *juſt power* and *greatneſs*. A

And Article the Sixth, That they ſhould in their Places and Callings, in that *Common Cauſe* of *Religion*, *Liberty*, and *Peace* of the Kingdoms, *aſſiſt and defend all thoſe that did enter into that League and Covenant in the maintaining and purſuing thereof*, and ſhould *not* ſuffer themſelves *directly* or *indirectly* by *whatſoever Combination*, *Perſwaſion* or *Terrors*, to be *divided* or *drawn* from that *Bleſſed Union* and *Conjunction*, whether to make *defection* to the contrary part, or to give themſelves to a *deteſtable Indifferency* or *Neutrality* in that *Cauſe* which ſo much *concerned* the *Glory* of God, the good of the Kingdoms, and Honour of the King. B

This *Covenant* was agreed to by the two Houſes in *England* before the Twenty ninth of *Auguſt* next following, as appears by (2.) *Husbands Collections*. There was a *Declaration* of both Houſes for the Members that were in the Army to take the (3.) Covenant, another *Ordinance October* the Tenth, for divers Soldiers to take it at (4.) St. *Margarets Weſtminſter*, and another for the ſame purpoſe (5.) *December* the Twelfth; ſo forward and zealous were the two Houſes to *humour* and *pleaſe* the *Scots* at that time, that they cauſed the Covenant to be taken by their Army Officers, before the *Articles* of Treaty, to purſue the Ends of it were *Exchanged*, and Signed in *Scotland*. C D

(2.) *f.* 318.

(3.) Ibid. *f.* 327. *Sept.* 20.
(4.) Ibid. *f.* 359.
(5.) Ibid. *f.* 399.

An Ordinance of both Houſes, (6.) That all *Officers* of the *Law* ſhall take the Covenant or *loſe* their *Offices*, that no *Practiſing Lawyers*, *Serjeants*, *Barriſters*, *Attorneys*, *Sollicitors*, *Clerks*, *&c.* ſhall be *admitted* to *Plead* or *Practiſe*, unleſs they take the Covenant.

(6.) Ibid. *f.* 416. *Jan.* 30. 1643. The Covenant injoined.

The (7.) *Declaration* of the Kingdoms of *England* and *Scotland* of the ſame date, *joined* in Arms for the *vindication* and *defence* of their *Religion*, *Liberties* and *Laws*, *againſt* the *Popiſh*, *Prelatical*, and *Malignant Party*, by the *Honourable Houſes* of the Parliament of *England*, and the *Honourable Convention* of *Eſtates*; In which they *ſay* this *Covenant* was *Gods Covenant*, that *he would never have put it into the hearts of both Nations to have Sworn and Subſcribed it, if he had been minded to deſtroy them*; and that the *War* in which both Nations were ſo deeply engaged, *was of God*. They are their own words. E

(7.) Ibid. *f.* 417.

They call it Gods Covenant.

They alſo *declare*, (8.) That *Neutrality* and *Indifferency* in the *time* of *danger* of *Religion*, was a *thing deteſtable to God*; that *ſuch* as have been *Neutraliſts* or *indifferent* in the times of Civil Diviſion and danger of the Common Wealth, *have* been in all *Nations ſeverely puniſhed*, as *pernicious* and *publick Enemies*, and therefore they gave *publick warning* to ſuch Perſons to reſt no longer upon their *Neutrality*, or F

(8.) Ibid. *f.* 418.

Neutraliſts to be puniſhed as publick Enemies.

or to pleaſe themſelves with the *naughty* and *ſloathful pretext* of *indifferency*, but that they *addreſs* themſelves ſpeedily to *take* the *Covenant*, and join with all their power in the *defence* of that Cauſe againſt the *Common Enemy*, otherwiſe, they do *declare* them to be *publick Enemies* to the *Religion* and *Country*, and that they are to be *cenſured* and *puniſhed*, as *profeſſed Adverſaries* and *Malignants*. They are their own words.

A

And they did further *declare*, (9.) That the *whole Eſtates real* and *perſonal*, *moveable* and *inheritance* of *ſuch to be ſeized by Sequeſtrators*, *and the Rents to be by them received*, *and the Goods and Chattels ſold*; and there are many hundreds, if not thouſands yet living, that have known, and ſeen Miniſters in all Countries turned out of their Livings, and Laicks out of their Eſtates, and their *Goods ſeized* by *Sequeſtrators*, and appraiſed by Apprayſors of their own appointment, and ſold before their faces, for refuſing to take this *Covenant*, and being Rebels.

(9.) Ibid. *f.* 49. and *f.* 220. *n.* 6, 7.

B

Febr. 2. An (1.) *Ordinance* of the *two Houſes enjoining* the taking of the *Solemn League* and *Covenant throughout* the *Kingdom* of *England* and *Wales*, with *Inſtructions* and an Order, that the Aſſembly of Divines do prepare an Exhortation for the better taking of it; *and that that Exhortation and* (2.) *Declaration of the Kingdoms of* England *and* Scotland, *joined in Arms for the vindication and defence of their Religion*, *Liberties*, *and Laws*, *againſt the Popiſh*, *Prelatical*, and *Malignant Party*, *and paſſed the Thirtieth of* January *laſt*, be publickly read, when the Covenant is read, and alſo that the *names* of ſuch as *refuſed* it, ſhould be *returned*, to the *Committees* in each County, and by them to the Houſe of Commons.

(1.) Ibid. *f.* 420. The Covenant enjoined to be taken by all.
(2.) Ibid. *f.* 421.

C

The King by his Proclamation dated at *Oxford*, *October* 9. the ſame year, prohibited the tendring and taking of this Covenant, reciting, that the Commons had ordered it to be Printed and Publiſhed on the Twenty firſt of *September* then laſt paſt, being in *truth*, as the *Proclamation* ſets forth, nothing elſe but a *Traiterous* and *Seditious Combination againſt him*, and *againſt the Eſtabliſhed Religion*, and *Laws* of the Kingdom, though it *ſeemed* to make *Specious Pretences* of *Piety* and *Religion*. We ſhall not here examine the *wickedneſs* and *impiety* of this (as they called it) *Holy Union* and *Covenant*, nor the *blaſphemous* Expreſſions which were conſequential to, and fixed upon it, of *Gods Covenant*, and *Gods War*, which was undertaken in purſuance of the Ends of it, but ſee how they *obſerved ſuch ends*, *meanings*, and *intentions*, as might fairly be deduced from the words and tenor of it.

The King by Proclamation prohibits the taking of the Covenant.

D

E

When the King was in the *Scots* Quarters in the Months of *October* and *November* 1646. there aroſe a *Diſpute* between the *two Houſes* and the *Scots Commiſſioners*, (3.) who had the *Intereſt* in *diſpoſing* the *Perſon* of the King, the *Scots* claimed a *joint Intereſt* with the *Engliſh*, and the Commons affirmed the Kingdom of *Scotland* had *no right* of *joint Intereſt*, in diſpoſing of the Perſon of the King in *England*, when indeed neither had right or intereſt in diſpoſing of his Perſon legally, for *right* to do that *implies* a *ſuperiority* and power of the *Diſpoſer*, over him that is to be *diſpoſed* of, either by juſt *Dominion*

A Diſpute between the two Houſes and *Scotch* Commiſſioners, &c.
(3.) The Anſwer of the Commons to the *Scots* Commiſſioners Papers of the 20th and 24th of *Octob.* Printed by order of the Commons *November* 28. 1646.

F

Dominion and *Soveraignty*, or *Direction* of the Law, and in this case there was neither of these to be pretended unto, for the *dominion* and *power* of the *Sword* gained by Rebellion, under which the King then was, is no just Dominion; besides this Reason, the *Judges* above fourscore years since, in the *Case* of the (4.) *Earl* of *Essex* his *Rebellion* and *Treason* against Queen *Elizabeth*, *delivered* their Opinions for matter of Law in two notable Points concerning the like actions and behaviour of Subjects towards their King, as was in this case. A

The first, That in Case where a Subject attempts to put himself into such Strength as the King shall not be able to *resist* him, and to *force* and *compel* the King to *govern* otherwise, then according to *his own Royal Authority* and *Direction*, it is manifest Rebellion.

Secondly, That in every Rebellion, the *Law intendeth* as *a Consequent*, the *compassing the death and deprivation of the King*, as foreseeing, that the *Rebell* will never suffer that King to live or Reign, which might *punish* or take *revenge* of his *Treason* and Rebellion. B

'Tis more then probable this *Dispute* was not in *earnest*, and but only a *blind* to what followed soon after; (5.) for before, or rather at the very time of it, they *agreed* with the two Houses upon *Terms* for their marching out of *England*, by which Agreement they were to have 200000 *l.* paid upon the *delivery* of *Newcastle*, *Berwicke*, and *Carlisle* to the Parliament, and *two hundred thousand* more *secured* to them upon the Publick Faith of the Kingdom. The first Payment C was made at *Newcastle* according to Contract, and thereupon they delivered the King to the *Earls* of *Pembroke* and *Denbigh*, the *Lord Montague*, Sir *James Harrington*, Sir *John Holland*, Sir *Walter Earl*, Sir *John Cook*, Mr. *Crew*, and *Major General Brown*, who were *Commissioners* appointed by the Parliament to receive him. The *Scots* march out of *Newcastle*, *Febr.* 6. and the King two days after with these Commissioners set forward toward his House at *Holdenby* in *Northamptonshire*, where he arrived on the Sixteenth of that Month, D and was (6.) kept *close Prisoner several Months*, *his Servants were denied access to him*, none but the Commissioners or who they pleased were permitted to converse with him, nor were any Letters to be given to, or received from him, and he was in that distress and affliction *denied* the *use* and *assistance of his own Chaplains*, Men of Exemplary Piety and found in the Protestant Religion.

They were the *same two Houses*, and the *same Scots* that did these things, which *entred* into a *Solemn League* and *Covenant*, for *Reformation* of Religion, the *Honor* and *Happiness* of the King, *&c.* that E sware they had no thoughts or intentions to diminish his Majesties just Power and Greatness.

They were the *same two Houses*, or at least the leading and prevailing Party in them, and their *same Neutral* Followers, that while he was their *Prisoner*, always sent *unreasonable Propositions* to him, to which he could not *consent*, without *disclaiming* his *Reason*, *violating* his *Conscience*, and *destroying* the *Religion* and *Government* then F by Law Established.

They were the *same* two Houses as before, that on the Twenty fourth of *December* 1647. sent *four Bills* to the King to the Isle of *Wight* to be *passed*, as *previous* to a Treaty, by which he was to unking himself, allow and confirm all they had done, and give them all the power of the Kingdom, together with *three* and *twenty* Propositions,

(4.) A Declaration of the Practices and Treasons of *Robert* Earl of *Essex* and his Complices, together with his Trial Printed by the Queens Printers and Order, 1601. The Judges Opinion in two Points of the Earl of *Essex* his Treason against Queen *Elizabeth*.

(5.) *Bakers* Chron. *f.* 568. *col.* 2.

The *Scots* sell their King.

The Commissioners names that received the King.

(6.) His Message to both Houses from *Holdenby*, *May* 12. 1647.

Presbyterian Practices.

tions, (whereof the Fourteenth was that an *Act* might be *paſſed* for the *ſetling* of the *Presbyterian Government* and *Directory*) which upon the paſſing of thoſe Bills were to be treated of.

They were the *ſame Presbyterian Covenanting* two Houſes, that on the Fifteenth of *January* next following, *reciting* they had received an *abſolute Negative* to the *four Bills*, (which as they affirmed contained only matter of ſafety and ſecurity to the Parliament and Kingdom) *paſſed* the following Votes.

Reſolved upon the Queſtion, That the Lords and Commons do declare, that they will make no further Addreſſes or Application to the King.

Reſolved upon the Queſtion, by the Lords and Commons Aſſembled in Parliament, That no Application or Addreſs be made to the King by any Perſon whatſoever, without the leave of both Houſes.

Reſolved upon the Queſtion, by the Lords and Commons Aſſembled in Parliament, That the Perſon or Perſons that ſhall make breach of this Order, ſhall incur the Penalties of High Treaſon.

Reſolved upon the Queſtion, That the Lords and Commons do declare, that they will receive no more any Meſſage from the King, and do injoin that no Perſon whatſoever, do preſume to receive, or bring any Meſſage from the King to both, or either Houſes of Parliament, or to any other Perſons.

Presbyterian Votes for no more Addreſſes to the King.

Theſe *Votes* were the **Grounds** and **incouragement** of that *Long*, *Bloody*, and *Execrable Remonſtrance* of the *Lord Fairfax General* of the *Parliaments* Forces, and of the *General Officers* held at St. *Albans* the Sixteenth of *November* 1648. preſented to the *Commons* Aſſembled in Parliament the Twentieth of that Month, dated at St. *Albans* the Eighteenth, and *Signed John Ruſhworth*, as they do confeſs in the 52d, 53d, and 60th *pages* of the ſame; in which they *propound*, *move* for, and *preſs openly* the *Murther* of the *King*, and the *Alteration* of the *Government*.

The Grounds of the Bloody St. *Albans* Remonſtrance.

There were ſeveral Papers dated at St. *Albans* of this nature.

The *Commiſſioners* of the *Kingdom* of *Scotland* put forth an *Anſwer* to both Houſes of Parliament upon theſe *new Propoſitions* of *Peace* and *four Bills*, before they were ſent to his Majeſty, and at the (7.) concluſion of it they *ſet* down their *Deſires*, the chief of which were.

First, That in ſtead of ſending Propoſitions, there might be a *Perſonal Treaty* with his Majeſty at *London*, and that he to that end might be * *invited* to *come* thither with *Honour*, *freedom* and *ſafety*.

Secondly, That the *Honourable Houſes*, according to the *Solemn Vows*, *Treaties*, *Declarations* and *Engagements* between the *two Kingdoms*, would after ſo very long delay, *Eſtabliſh* the *Solemn League* and *Covenant*, and that his Majeſty be deſired to *give* his *Royal Aſſent*, for *confirming* the *ſame* by Act of Parliament in both Kingdoms.

Thirdly, That the ſetling *Reformation* of, and *Uniformity* in *Religion* according to the *Covenant* in *England* and *Ireland*, be likewiſe deſired in theſe new Propoſitions; and in *particular*, that the *Confeſſion* of *Faith*, *Directory* of *Worſhip*, *Form* of *Church Government*, and *Catechizing*, *agreed* upon by the *Aſſembly* of *Divines*, and *preſented* to the Houſes, be Eſtabliſhed.

Fourthly, That by Act of Parliament *effectual Courſe* be taken, for *ſuppreſſing Blaſphemy*, *Hereſie*, *Schiſm*, &c.

The *Scotch* Commiſſioners Anſwer their Propoſitions and four Bills. (7.) p. 25, 26, 27. They propound a Perſonal Treaty. * *Page* 5. And the Eſtabliſhment of the Covenant.

Fifthly,

And Disbanding of the Army.

Fifthly, That the *Armies* in both Kingdoms, which were *raised* for *Preservation* and *Reformation* of *Religion*, and for *defence* of the Kings Person, and safety of the Kingdoms, be not *kept* up to *hinder Reformation* of *Religion*, and the *King from* his *Government*, and to be a *burthen* to the Subjects since the War was ended, but that they might have due satisfaction of their Arrears, and be Disbanded.

And restoring the King to his Power and Government.

Sixthly, That the *King* be *restored* to his *Rights* or *Revenues*, and particularly, that the *Crown* be not *excluded* from the *power* of *making Laws*, which is as *Essential* to *Kings*, as to *govern* by *Laws*, and sway the Scepter; nor from the *power* of the *Militia*, without which they can neither *protect* their Subjects, *oppose their* and the *Kingdoms* Enemies, nor *keep friendship* with their Allies. A

The Lords and Commons publish a Declaration against this Answer.

Concerning this Answer, and these Desires, the *Lords* and *Commons* Assembled in Parliament set forth a Declaration, and order it to be Printed and Published, *March* 4. 1647.

(8.) *Page* 20. The Heads of that Declaration.

Wherein they *declare*, (8.) they *cannot admit* of a *Personal Treaty*, unless they resolved to be *treated* out of *all* they had *fought* for, and to be *treated* out of *what* they *could* not be *fought* out of; That the *Scots* (9.) *Commissioners mistake* their aim, if they think the *Kings presence* with the *Parliament*, necessarily *implieth* his *presence* at *London*, which the King and they so much desired, that he might have *opportunity* to *cajole* the *Citizens*. They also *mistake* the Parliaments (1.) *Declarations*, if they *thought* it was the Kings *local absence* from his Parliament, which they *declared* to be the *chief cause* of all the *War*, *Mischief*, and *Calamities* of the Kingdom, any *otherwise* than it was in *order* to his *distance* in *Affections*, and his *oppositions* in their *Councils*, and endeavours to destroy them; and yet in their *Declaration* of *Sept.* 11. 1642. they say, that if his Majesty would then be pleased *to come back* to his Parliament without his *Forces*, that they should be ready to *secure* his *Royal Person*, *Crown* and *Dignity*, with their *Lives* and *Fortunes*, his *presence* in that *great Council* being the *only means* of *any Treaty* betwixt his Majesty and them *with hope* of success: this they own here *pag.* 26. and in their Answer to the *Scots* Papers about their *interest* in *disposing* of the *Person* of the King, *pag.* 66. but say nothing of moment to it in either place, this is certainly a Local, Personal Presence here meant; That they *were* to have (2.) *satisfaction* and *security*, *safety* and *security granted* by the King, (by which they *mean* the *four Bills* passed) *before* they *treated* or *sent Propositions* after the War; That the *King* (3.) *could grant no more than what they had*, (meaning his *Royalties*, *Power*, and *Government*) which they had usurped by Violence and the Sword; That it would be *base* and *dishonourable* for *them* in that (4.) *Condition* to *treat under* the *Gallows*, to *treat* as *Traytors*, their *Cause* being not *justified*, nor the *Declarations* against them as *Rebells* recalled. B

(1.) *Page* 21.

(2.) *Pag.* 27, 28, 70.

(3.) *Page* 8.

(4.) *Page* 86.

Concerning *Religion*, (5.) they *declare* they could never *find* that *Church Government* in a *Presbyterian way*, was *necessary* by any *Divine Right*; That the *Scots* (6.) *framed* and *devised* the *Covenant*; They (7.) *confess* (*speaking* of the *Solemn League* and *Covenant*, and the things contained in it) that the *state* of many *Questions*, at that time, which *went under* the *notion* of *Religion*, was indeed a *contest* only of *Power* and *Dominion*, as it had been of *old* between the *Clergy* and *King*, or *Temporal Estate*; Punishments and Censures Ecclesiastical, or the *Scots Discipline* (8.) they call *Popish* and *Prelatical* Principles, and *Apologize* for *Sectaries* and *Hereticks*, (9.) *Anabaptists*, *Antinomians*, *Familists*, *Shakers*, &c. C

(5.) *P.* 29, 30.

(6.) *Page* 34.

(7.) *Page* 37.

(8.) *Page* 43.

(9.) From *p.* 50, to 55.

Con-

Concerning the Militia and Disbanding the Army they (1.) declare; *That the Militia was the Foundation of their Security, and the Principal immediate Ground of the Quarrel, in order to the Preservation of Religion, and the just Rights and Liberties of the People. That* (2.) *Laws signifie nothing without the Militia by Sea and Land; The Parliament of no Authority, without the Power of the Sword, when by the Power of the Sword, it shall be opposed, affronted, resisted, their Summons scorned, their Messengers kick'd about the Streets, and their Votes and Judgments derided. That Freedom but imaginary Freedom, that hath no other than Paper or Parchment Walls at the best to defend it. That the* (3.) *Army or Forces were not to be Disbanded, but when the Two Houses should think it fit and safe, nor so long as it should be thought necessary to keep them up, for the maintaining of priviledge of Parliament, the Liberty of the Subject, and Protestant Religion, and for the Parliaments consulting freely and acting securely.* (1.) p. 68. (2.) p. 70, 71. (3.) p. 73, 82.

They term the common People which flocked about the Parliament Doors, and Avenues of the Houses in *July* Preceding, a (4) Tumultuous Rabble. The Traiterous Engagers and Leviers of a new War, when they petitioned and cryed out for the King to come to *London*, and for a Personal Treaty; when as such a sort of People, or it may be of a meaner and worse condition in the years 1640 and 1641. were countenanced, incouraged and applauded a long time together by these very Houses, when they cryed out against Bishops, and for Justice, or whatever else they would have them. (5.) They were owned as Friends and well-affected, and their Courage, Zeal, and Industry commended: nor could any Declaration from the Bishops, concerning their Insolencies and Assaults, nor from other Lords or Gentlemen of Honor, nor from the King himself take place, for the due Suppression of those Tumults, and securing their Freedom in Parliament, or Persons in the Streets. (4.) p. 61, 73, 74. (5.) Εἰκὼν Βασιλ. c. 4.

They further declare, That (6.) by Defence of the Kings Person and Authority, in the Preservation of the True Religion and Liberties of the Kingdoms, (that is, what they should think or declare to be the True Religion, and the Liberties of the Kingdoms) they meant, that such Religion and Liberties were first to be had and obtained, before any consideration was to be had of the Kings Person and Authority, and no otherwise. (6.) p. 73.

This long Digression hath been made, to demonstrate, that Designing mens Consciences do vary and change according to the Difference of Times, Emergencies of Things, and the Conditions of Affairs; and that the Heads especially and chief of them, before they enter upon the Method they propound to themselves, do know they must, and do intend, *To promise falsely, protest falsely, vow falsely, Covenant falsely, ingage falsely, associate wickedly and falsely, swear falsely, pretend to Religion and Piety falsely, Petition falsely, declare falsely, remonstrate falsely, draw up and publish the State of the Nation falsely, calumniate falsely, asperse the Government, Governors, and Ministers falsely.* That they may Cheat the People, raise Discontents, affright and bring them wholly under their Direction and Guidance, and make them Authors of their own Slavery, while they Usurp an Arbitrary boundless Power and Dominion over them, by monstrous

The reason of the Digression

monſtrous *Hypocriſie* and *Impoſture*, and maintain ſuch *Uſurpation* by that *very force* and Armes, with which the *Deluded* and *Abuſed* People at firſt *furniſhed* them; and when they have obtained force enough to defend themſelves, they will then expound and interpret their own *Declarations*, and put what *meaning* upon them they pleaſe, though not reaſonably warranted by the *words* themſelves.

But to return to the *Oath* of the *Conquerer*, neither *Pictavienſis*, *Eadmerus*, *Ordericus Vitalis*, *Hen.* of *Huntingdon*, or *Mat. Paris* do write of any taken by him: *Florence* of *Worceſter* is the firſt that mentions it, and *Simeon* of *Durham*, and *Roger Hoveden* tranſcribed it from him. The words of the Oath were, (7.) *Se Velle Sanctas Dei Eccleſias ac Rectores earum Defendere, necnon & cunctum populum, ſibi ſubjectum juſte ac Regali providentia Regere, rectam legem ſtatuere & tenere, Rapinas injuſtaque Judicia, penitus interdicere.* That is, that he would defend the *Holy Churches* of God, and the *Governors* of them, alſo that he would Govern all the People ſubject to him, juſtly, and with a Royal Providence, that he would make and keep right Law, and totally prohibit Rapines and unjuſt Judgments.

(7.) Flor. Wigorn. fol. 635. Et Jus Angl. ab antiq. p. 46. The Conqueror's Oath.

This *Oath* was conceived in general words, and ſuch as were of a great *Latitude*, and he might by the Power and help of his Sword, expound or interpret them in almoſt what ſenſe he pleaſed, and make them far more eaſily correſpond with his Actions, than if it had conſiſted of many ſtrict Particulars. Our Author hath added one * extraordinary neceſſary Article at that time, as he ſays, to this Oath, which is, *Quod æquo Jure, Anglos & Francos Tractaret.* He hath it out of *Malmsbury*, who relates the *Tranſaction* thus; (8.) *Exhortatus Aldredus Conſecrationem egit, exacto prius coram omni populo Jurejurando, quod ſe modeſte erga ſubjectos ageret, & æquo Jure Anglos, quo Francos tractaret*: *Aldred* being exhorted to it, Crowned *William*, firſt having exacted an *Oath* from him, that he would modeſtly or moderately behave himſelf towards his Subjects, and that he would treat or rule the *Engliſh* and *French* with the ſame equal Law; which notwithſtanding he behaved himſelf ſo ſeverely and rigorouſly toward the *Engliſh*, as the old Archbiſhop *Aldred* (9.) curſed him and his Progeny for it, and preſently after died with grief. This laſt part of the Story is left out, he well knowing it would have deſtroyed his whole *Argument* from the *Coronation Oath* of King *William*, as being a pregnant Teſtimony that he never kept it.

* *Arg. Antinorm.* p. 13. & *Jus Angl. ut ſupra.*

(8.) Malmsb. fol. 154. b. n. 10

(9.) Ibidem. Archbiſhop *Aldred* curſed King *William.*

Laſtly he pretends to *Evidence* demonſtrably, that it was not ſo much *Conqueſt* that King *William* the Firſt relyed upon, when he was ſettled in this Imperial Throne, as his *Claim* to the *Crown* of *England*, *Jure Hæreditario*, by Right of Inheritance, from ſome of his own *Charters*, and ſome of his Son *William*'s, and others of *Henry* the Firſt.

Arg. Antinorm. p. 18.

This Hereditary Right was only the Donation of *Edward* the Confeſſor, as Mr. (1.) *Selden* explains it, and there admits and approves it as a lawful Title, from whom our Author had this Argument,

(1.) Review of Tithes, p. 482, 483.

ment, and almoſt all others; and the Conqueror was no more than Epiſtolary or Teſtamentary Heir to that King, as appears by what hath been ſaid before concerning his nearneſs by Blood to the Confeſſor, and Queen *Emme*; and is farther evidenced from the Charters which he cites, and ſome others; as in his fourth inſtance; *Regnum mihi cum providentia Dei deſtinatum, & Beneficio cognati mei Glorioſi Regis* Edwardi *Conceſſum*: The Kingdom deſigned to him by the Providence of God, and granted to him by the Beneficence of his Glorious Kinſman King *Edward*. In a Charter of Priviledges to *Bury* Abbey, the Conqueror ſays he was Heir to the Kingdom by *Kinred* and the Gift of King *Edward*, (3.) *Illuſtris* Edwardi, *cujus miſeratione Domini, genere & Dono in Regno ſumus hæredes*; in his eighth inſtance it is yet more clear, where he hath miſtaken *Henry* the Firſt, for King *Stephen*, whoſe Charter of Priviledges to *Weſtminſter* Abbey begins thus; (4.) Stephanus *Dei Gratia Rex Anglorum*, &c. *Sciatis me pro Redemtione animæ meæ, & Patris & Matris meæ, necnon & Beatæ Memoriæ Regis* Edwardi *cognati mei*; *Qui avum meum, liberoſque illius in Regnum ſuum adoptivos hæredes inſtituerat*, &c. from whence it is plain, what his Hereditary Right was, but whether he relyed more upon that, than his Sword and Conqueſt, is left to every indifferent Reader to judge upon what hath been ſaid, and ſhall be further delivered in the enſuing anſwer.

The Conqueror had only an Epiſtolary Right. (2.) p. 19.

(3.) Monaſt. Angl. vol. 1. fol. 289. n. 50

(4.) *Ex Autograph.*

In the cloſe of his Anſwer to this firſt Queſtion, he ſaith, (5.) that he hath with a Three-fold Cord, not eaſily to be ſnapt aſunder, bound hard his Aſſertion, that *William* came to the Crown by the * Election and conſent of the Clergy and People, and that *Fœdus Pepigit*, he made a Solemn Covenant with the *Engliſh*, to obſerve and keep thoſe Laws which were *bonæ & approbatæ & antiquæ leges Regni*, the good approved ancient Laws of the Kingdom. Whether he hath twiſted ſuch a Cable as he ſpeaks of, is alſo left to the Readers Judgment.

(5.) *Antinorm.* p. 22.

* *Fus Angl. ab Antiq.* p. 56, 57, 58. He kept this as well as the Parliament kept the Solemn League and Covenant

But what work doth this ſmall *Scrap-monger* make with theſe two words, * **Fœdus Pepigit**, without mentioning the Author from whence he had them, which I ſhall cite for him, with the Sentence preceding and following, and give him leave to make his advantage of them, (6.) *Comes* Gulielmus, Suthregiam, Middleſaxoniam, Hartfordenſem *provinciam devaſtabat, & villas cremare, homineſque interficere, non ceſſabat, donec ad villam Beorcham veniret*; *Ubi* Adeldredus *Archiepiſcopus*, Wolſtanus Wigornienſis *Epiſcopus*, *Clito* Edgarus, *Comites* Edwinus & Morcarus, *& de* Lundonia *quique Nobiles, cum multis aliis ad eum venerunt, & datis obſidibus, illi Deditionem fecerunt, fidelitatemque juraverunt, cum quibus & ipſe* **Fœdus Pepigit**, *& nihilominus exercitui ſuo, villas Cremare, & Rapinas agere permiſit. Appropinquante igitur, Dominicæ Nativitatis Dominicæ Feſtivitate, cum omni exercitu,* Lundoniam *ut ibi in Regem ſublimaretur, adiit.* Earl *William* waſted *Surrey*, *Middleſex* and *Hartfordſhire*, burnt Towns and killed Men, until he came to the Town of *Beorcham* where *Aldred* the Archbiſhop, *Wulſtan* Biſhop of *Worceſter*, Prince *Edgar*, the Earls *Edwin* and *Morcar*, and the Nobility from *London*, with many others, came unto him, and having given Hoſtages, ſubmitted and ſware Fealty to him, with whom he entred into Conditions, and granted them terms of Peace,

* *Ibid, & Fus Angl. ab antiq.* p. 45, 58. *in margine.*

(6.) *Flor. Wigorn.* fol. 634, 635. The ſame words in *Simeon Dunelm.* col. 195. n. 30. Alſo the ſame words in *Hoveden*, fol. 258. a. lin. 1. &c.

William's behaviour before he was Crowned, which was done by aſſiſtance of his Army.

Peace, and never the less he permitted his Army to burn Towns, and commit Rapine; and *Christmas* approaching, he went to *London* with all his Army, that he might be made King. Here is no Election, no consent of the People, no Bargain strucken, or Covenant made, to observe and keep the Laws, which were *bonæ & approbatæ leges Regni*, as this Writer falsely insinuates. But on the contrary here is the Submission of the People, the Behaviour of a Conqueror, Hostages taken, Towns burnt, Rapine committed, and he himself made King by the influence of an Army. Thus much for his pitiful Assertions and Arguments, in Answer to his first Question. A

These words *bonæ, antiquæ & approbatæ leges*, belong to the Story of Abbat *Frederick* of St. *Albans*, of which in the second Question.

The Second Question is.

Antinorman. p. 23. Whether the first *William* did abolish all the *English* Laws, and changed the whole Frame and Constitution of the Government. B

The State of the second Question mistaken. No man that I know, ever made the Affirmative part of this Question his Assertion; he hath here again mistaken the State of it; for it ought to have been put, whether in his Reign and Government he used only the *English* or *Saxon* Laws, and brought in no other, by which he governed the Nation. C

(7.) Lib. 1. c. 29 *Gervase* of *Tilbury* is full and clear in this Point, who from *Henry* Bishop of *Winchester*, Brother to King *Stephen*, and Grandchild to the Conqueror, a great Officer in the Exchequer, tells us what Law he established, and by what Law he ruled, (7.) *Cum Insignis subactor* Angliæ *Rex* Gulielmus, *ulteriores Insulæ fines suo subjugasset imperio, & Rebellium mentes, terribilibus perdomuisset exemplis, ne libera de cætero daretur erroris facultas, decrevit subjectum sibi populum, Juri scripto, legibusque subjicere. Propositis igitur legibus* Anglicanis, *secundum tripartitam earum distinctionem, hoc est* **Merchenlage, Denelage, & West-Saxenlage,** *quasdam reprobavit, quasdam autem approbans,* **Transmarinas Neustrie,** i. e. Normaniæ **Leges, que** *ad* **Regni pacem tuendam efficacissima videbantur, adjecit.** When the Famous Subduer of *England* King *William*, had subjected to his Empire the utmost parts of the Island, and by terrible examples had brought to perfect obedience the minds of Rebels. That they might not have liberty of falling into the same Errors for the future, he resolved to govern the People subjected to him by written Right and Law. Therefore the *English* Laws being propounded according to their Threefold Distinction, that is, the *Mercian-Law*, *Dane-Law*, and *West-Saxon-Law*, he rejected some, and approved others, and added such *Transmarine Norman Laws, as seemed most efficacious, for to defend the Peace of the Kingdom*; and as to Matter of Fact, the Reader is referred to the Preface of the *Norman* History, where he will find it fully proved, that the Law used in this Nation after the Conquest, especially as to the Method and Practice of it, was the *Norman* Law, and so remains to this day in very many things. D E F

What Law *William* established.

But

But that no Cavils may remain unſatisfied, I ſhall give a particular anſwer to every thing that is ſaid in this Treatiſe, and in all others I have met with.

A He begins to (8.) prove the Negative of this Queſtion, by the Authority of Sir *Edward Coke*, (9.) who ſays, the Grounds of our Common Laws at this day, are beyond the Memory or Regiſter of any beginning, and the ſame which the *Norman* Conqueror found within this Realm. The contrary to this Aſſertion is made Good againſt him in the Preface to the *Norman* Hiſtory before cited, whither I refer the Reader. But how will he reconcile Sir *Edward* to Sir *Edward*, when he ſays in the ſame Preface, that Original Writs are the Foundations whereupon the Law dependeth; and I think it will eaſily be granted, that theſe are no where B to be found before the Conqueſt, and that they are neither beyond the Regiſter of beginning, nor that the Conqueror found them here. Again in his Preface to his eighth Report, he ſays that the whole Frame of the antient Common Laws of this Realm do in effect appear in the Mirror of Juſtices, and that therein may perfectly and truly be diſcerned the whole Body of the Common Laws of *England*. Can a Frame or Body be without Grounds or Foundation, and the Frame, Method and Form of moſt of the C Authentick (1.) Laws in that Book was eſtabliſh'd ſince the Conqueſt, and can any one think it was done without Ground or Foundation?

(8.) *Antinorman.* p. 23.
(9.) Preface to his eighth Report.
The Grounds and Foundation of the Common-Law

(1.) See Preface to the *Norman* Hiſtory.

D The next * Proof he brings to make good the Negative of this ſecond Queſtion, is the Title of the Laws attributed to the Conqueror in *Selden*'s Notes upon *Eadmer*, fol. 173. *Ces ſont les leis & les Cuſtumes que li Reis* William *grantut á tut le peuple de* Engleterre, *apres le Conqueſt de la terre*, *Ice les meiſnes que le Reis* Edward *ſon coſin tint de vant li.* Theſe are the Laws and Cuſtoms which King *William* granted to all the People of *England* after the Conqueſt of the Land. The very ſame which King *Edward* his Couſin held before him.

* *Antinorman.* p. 24.

The Title of King *Williams* Laws.

E This is the Title to the ſame Laws for which he cites *Ingulphus* Abbot of *Croyland*, page 29. and thoſe he brought with him from *London* to that (2.) Monaſtery; the Laws of moſt Juſt King *Edward*, which his Lord the Renowned King *William* would have perpetual and Authentick, and by Proclamation had commanded they ſhould be kept, under moſt grievous pains, through the whole Kingdom, and had recommended them to his Juſtices, in the ſame Language in which they were publiſhed, leſt it might happen, through ignorance, any one might go contrary to, or F by a raſh Act offend his Royal Majeſty, and ſo incur the moſt Rigid Cenſures contained in them. The words of *Ingulph* are theſe, *Attuli eadem vice mecum* Londoniis *in meum Monaſterium Leges æquiſſimi Regis* Edwardi, *quas Dominus meus inclytus Rex* Willielmus *Authenticas eſſe & perpetuas per totum Regnum* Angliæ, *inviolabiliter tenendas ſub pœnis Graviſſimis proclamarat & ſuis Juſtitiariis commendarat*, *eodem Idiomate quo Editæ ſunt*; *ne*

(2.) *Seld. Not. ad Eadm.* fol. 172. n. 40, 50. Ingulph. Hiſtor. b Croyland. fol. 519. b. n. 30, 40.

Ingulph Abbat of *Croyland*, brought King *Williams* Laws from *London*.

per

per Ignorantiam contingat nos vel nostros aliquando in nostrum grave periculum, contraire & offendere ausu temerario Regiam Majestatem, ac in ejus **Censuras Rigidissimas**, *improvidum pedem ferre contentas sæpius in iisdem.*

(3.) Ingulph. Hist. fol. 516. b. n. 10. 20. (4.) Little Doomesday-Book, f. 450. a.

Theſe Laws *Ingulph* brought from *London* in the Twentieth, or laſt year but one of the Conqueror, for at the ſame time he brought with him a Copy of a Survey of all the Lands belonging to his Monaſtery, out of *(3.) Doomeſday* Roll or Book, which was not finiſhed until that year, as appears at the end of the Deſcription of *Eſſex*, *Norfolk* and *Suffolk*, *(4.) Anno* 1086. *ab incarnatione Domini, viceſimo vero Regni* Willielmi, *facta eſt iſta Deſcriptio, non tantum per hos tres Comitatus, ſed etiam per alios*; and this in a hand as antient as that of the Survey it ſelf is written in; by this it appears, theſe were only the allowed Laws of King *Edward*, which were permitted to be uſed, and had the Authority of Law, 'tis not probable he publiſhed any other afterward, for within a very ſmall time, he went into *Normandy*, where he died. They were in number Fifty, moſt Penal Laws, as appears by *Ingulph*, and the Laws themſelves, from which he received much profit and advantage from the many and great Mulcts impoſed upon the People, for the various Tranſgreſſions of them. And the others of ſmall moment, and no ways inconſiſtent with King *William*'s Eſtabliſhment, moſt of which were taken out of the *Saxon*, ſome out of the *Daniſh* and Feudal Law.

A

B

Moſt of them were Penal Laws.

C

(5.) Not. ad Eadm. fol. 189. n. 30.

(6.) Lamb. Archion. fol. 170.

But beſides theſe received from King *Edward*, and publiſhed with his Approbation, and by his Command, there were others attributed to King *William*, which Mr. *Selden* ſubjoyns to the Laws taken from the *Crowland* Copy: *(5.) Atqui Complures aliæ, vetuſtis Schedis* Gulielmo *Regi tributæ, præter eas* Edwardo *Regi accepto latas, reperiuntur, quarum haſce ſubjungere viſum eſt*, &c. The very ſame Laws with ſmall variation, are publiſhed by Sir *Roger Twiſden*, as he *(6.)* found them in the Red Book in the Exchequer, which he thought the moſt Authentick Exemplar, and placeth them likewiſe immediately after the *Crowland* Copy, publiſhed by himſelf.

D

The additional Laws to King *Edwards* for the eſtabliſhment of King *William*'s Government. (7.) Lambard. Arch. fol. 170. Seld. Not. in Eadm, fol. 190. n. 10.

Amongſt theſe laſt mentioned Laws, there are ſome, which at that time without doubt were thought very efficacious for the Preſervation of the Peace, and the Eſtabliſhment and Government of King *William*, which *Gervaſe Tilbury* ſays, were added to the *Saxon* Laws. The firſt is *(7.)* Law the 52th. Tit. *De fide & obſequio erga Regem, Statuimus etiam ut omnes liberi homines fœdere & Sacramento affirment quod intra & extra Regnum* Angliæ, *(quod olim vocabatur Regnum* Britanniæ*)* Willielmo *Regi Domino ſuo fideles eſſe volunt, Terras & honores illius omni fidelitate ſervare cum eo & contrare inimicos & alienigenas defendere.* We do appoint and ordain that all Free-men may by League and Oath affirm or make good, that within and without the whole Kingdom of *England*, (which was antiently called the Kingdom of *Britain*) they will be faithful to their Lord *William*, and by their Fealty will preſerve his Lands and Honors every where with him, or in his Poſſeſſion, and defend them againſt his Enemies and Strangers.

E

F

The

The (8.) Second Law is the 55th. (8.) Ibidem.

De Clientelari, seu Feudorum Jure, & Ingenuorum immunitate.

Volumus etiam ac firmiter **præcipimus**, *&* **Concedimus** *ut omnes* **liberi** *homines totius Monarchiæ Regni nostri prædicti, habeant & teneant terras suas, & possessiones suas,* **bene** *&* **in pace**, **libere** *ab omni* **exactione** *injusta, & ab omni* **Tallagio**, *ita quod* **nihil** *ab eis exigatur, vel capiatur, nisi* **servitium**, *suum* **liberum**, *quod de Jure nobis facere debent, & facere tenentur; & prout Statutum est eis, & illis à nobis* **Datum**, *&* **Concessum** *jure hæreditario imperpetuum per* **Commune Concilium** *totius Regni nostri.*

Of the Feudal Law, and immunity of Free-men.

We Will and firmly Command, and we Grant, that all Free-men of the whole Monarchy of our Kingdom aforesaid, have and hold their Lands and Possessions, well and in Peace, free from all unjust Exaction and Tallage, so that nothing be exacted or taken from them, but their Free-Service, which of Right they are bound and ought to perform to us, as it was appointed to them, and given by us to them, and Granted in Hereditary Right for ever, by the Common-Council of our Realm. The Feudal Law of King *William.*

The (9.) Third Law is the 56th. (9.) Ibid. & in Lamb. fol. 171.

De nocturnis Custodiis.

Statuimus etiam & firmiter præcipimus, ut omnes Civitates & Burgi, & Castella, & Hundredi & Wapentachia, totius Regni nostri prædicti, singulis noctibus, vigilentur & Custodiantur in gyrum pro maleficiis, & inimicis, prout Vicecomes & Aldermanni, & præpositi & cæteri Ballivi & ministri nostri, melius per Commune Consilium ad utilitatem Regni providebunt.

Of Night-Watches and Guards.

We Ordain and firmly Command, that all Cities and Burghs, and Castells, Hundreds, and Wapentachs of our whole Kingdom aforesaid, be watched and guarded every night, and the Rounds to be walked, to prevent Mischiefs, and the Contrivance of Enemies, as the Sheriff, Aldermen, Provosts, and our other Bayliffs and Ministers, shall by Common Advice best provide for the profit of the Kingdom. Cities, Burghs Castles, &c. to be watched and Guarded.

The

(1.) Ibid. & in Seld. not. &c. fol. 191. n. 10.

The (1.) Fourth Law is the 58th.

De Clientum seu Vassallorum, præstationibus.

Who the Vassals and Feudataries were. *See the Glossary in this word.

Their Service.

Statuimus etiam & firmiter præcipimus, ut omnes **Comites**, *&* **Barones**, *&* **Milites**, *&* **Servientes**, *&* *universi* **Liberi homines**, *totius Regni nostri prædicti habeant & teneant se semper bene* **in armis** *&* **in equis**, *ut decet & oportet, & quod sint semper prompti, & bene parati ad* **Servitium suum integrum** *nobis explendum & peragendum cum semper opus adfuerit, secundum quod nobis debent, de* **Feodis** *&* **Tenementis** *suis de* **Jure** *facere; & sicut illis statuimus, per* **Commune Concilium** *totius Regni nostri prædicti & illis* **Dedimus** *&* **Concessimus** *in* **Feodo**, *jure Hæreditario, hoc præceptum non sit violatum ullo modo super forisfacturam nostram plenam.*

Of the Præstations, or Services of Feudataries or Vassals.

The Conquerors Feudataries or Subfeudataries, were Earls, Barons, Knights, and all Free-men.

We Ordain also and firmly Command, that all Earls, Barons, Knights, or such as served for them, and all Free-men of our whole Kingdom, be always fitted with Horse and Arms, as they ought to be, and always ready to perform their whole Service to us, when there shall be need, which they ought of Right to do, according to, and by Reason of their **Fees** and **Tenures**, as we ordained by the Common Council of our whole Kingdom, and gave and granted to them in Fee by Hereditary Right. This Command is not to be any ways violated, upon pain of our full forfeiture.

(2.) Ibidem.

The (2.) Fifth Law is the 59th.

Ut Jura Regia illæsa, servare pro viribus conentur, Subditi, the last word *(Subditi)* is put here in stead of *(liberi homines)* as appears by the Law it self.

The Martial Duty of the Free-men or Feudataries.

Statuimus etiam & firmiter **præcipimus**, *ut* **omnes liberi homines** *totius Regni prædicti, sint* **fratres conjurati**, *ad Monarchiam nostram, & ad Regnum nostrum, pro viribus suis & facultatibus contra inimicos pro* **posse** *suo defendendum, & viriliter servandum,* **Pacem** *&* **Dignitatem** *Coronæ nostræ, integram observandam & ad* **Judicium Rectum** *&* **Justitiam** *constanter omnibus modis pro posse suo sine Dolo, & sine Dilatione faciendam.*

The Civil Duty of the same.

That the Free-men do endeavour, with all their Power, to preserve the Royal Rights from injury.

We Ordain and firmly Command, that all Free-men of the whole Kingdom aforesaid, be sworn Brothers, manfully to preserve and defend our Monarchy, and our Kingdom with their Force and Fortunes to our utmost of their Power, and to keep intire the Peace and Dignity of our Crown, and to give right Judgment, and to do Justice by all ways and means, according to their Power and Ability, without Fraud and Delay.

The

The Sixth (3.) Law is the 64th Law.

(3.) Ibid. Seld. fol. 192. & Lamb. fol. 172.

De Justitiæ publicæ fide-jussoribus.

A *Omnis* **homo** *qui voluerit se teneri pro* **libero** *sit in* **Plegio**, *ut Plegius eum habeat ad Justiciam si quod offenderit, & si quispiam evaserit, talium videant Plegii, ut solvant quod calumniatum est, & purgent se quia in evaso nullam fraudem noverint.*

The Borh-Law, or Law of Pledges or Sureties.

B Every man that will be holden for a Free-man, let him be within a Pledge or Decury, and let his Sureties or Pledges bring him to Justice if he hath offended, and if any man escapes or flies, let them look to the Debt or Mulct, and pay what is claimed, and purge themselves by Oath, that they knew no Fraud or Falsehood in him that escaped. These were the (4.) lowest and ordinary sort of Free-men that were thus bound to their good Behaviour, and though it was a *Saxon* Law, yet in the Circumstances the *English* were in, at that time under hard Masters, it could be no C advantageous or profitable Law to them; and this causeth me to cite the next Law, and for that our Author often makes use of the latter part of it.

The Law of Pledges, or Borh-Law.

(4.) See the Glossary *in verb. liberi homines.*

The Seventh and last (5.) Law is the 63d Law; the others are only Penal, and Laws of Purgation.

(5.) Lamb. & Seld. ut supra.

Firmantur Leges Edwardi.

D

Hoc quoque præcipimus, ut omnes **habeant** *&* **teneant Legem Edwardi** *Regis in omnibus Rebus,* **adauctis** *his, quas constituimus ad* **utilitatem Anglorum.**

Hence our Author (6.) infers, that these Additional Laws were made for the Benefit and Advantage of the *English Saxons*, and not the *Norman-English*. But I affirm these Laws were made five of E them, as most efficacious for the securing the Peace of the then Government, which was in consequence only for the advantage of the *Normans*, and could not be so for the *Saxons*, and one other directly and fundamentally of the greatest Benefit to the *Norman* Military Possessors, or Free-men that could be, though it be said here, *ad* **utilitatem Anglorum**, for the profit of the *English*.

(6.) Antinorm. p. 24. p. 30. p. 55 p. 58.

These Laws made for the Benefit of the *Norman* not *Saxon English*.

F First I refer the Reader to the Glossary, for the frequent meaning of the Words, *Angli*, and *Anglici*, *Franci*, &c. in the old Histories, and old *Norman* Grants, Writs, and Charters, and then let him consider the meaning and intention of these Additional Laws, (as they are called) both here, and in *Gervase* of *Tilbury*, before cited.

The *first* is the *Oath* of *Allegiance* to King *William*: The *fifth* here cited is *nothing* but a *further* and *clear Explanation* and *Confirmation* of the *first*, That all *Freemen* of the whole Kingdom, should be *sworn Brothers*, to *defend* King *Williams Monarchy*, and his *Kingdom* according to their *power* and *faculties*, or fortunes, against *his Enemies*, and to *preserve* intire the *peace* and *dignity* of his Crown, *&c.*

Now let us see *who* they *were* that *sware* and *were obliged* to do this; they were *Earls*, *Barons*, *Knights*, *Esquires*, and all the *Freemen* of the *whole Kingdom*, who were always to be *ready*, *fitted* and *prepared* with *Horse* and *Arms*, according to their *Fees* and *Tenemens* which were *given* them to that *purpose* by the *Conqueror*, and by the consent of the Common Council of his whole Kingdom in *fee by Hereditary Right*, as appears by the fourth Law here mentioned. Now when the *Author* of this *Argument* can *make* it *appear*, that *William Erected new Earldoms*, *Baronies*, *Knights Fees* and *Services* here, *and by the Advice and Consent of the Common Council of the Kingdom*, granted *Lands of Inheritance* to *support and maintain them*, *and* then *gave them to the* English Saxons, *I shall agree these three Laws were made for their* Profit. A B

And when he can make it appear, that the *Watches* and *Guards* set and placed in *Cities*, *Burghs*, *Castles*, *Hundreds*, and *Wapentaches*, consisted of *English Saxons*, and that his *Sheriffs*, *Aldermen*, *Provosts*, and other *Bayliffs* and *Ministers* that *were* to *Consult* how to *set* and *place* them to the *Advantage* of the Kingdom, were English Saxons, I *will* likewise *grant* that this *third*, and also the *sixth* Law here *noted* concerning *free pledges* and their behaviour, were made for their Advantage. C

(7.) *Page* 84. *p.* 110. King *Williams Magna Charta*, what it was.

But what shall we say to King *Williams* (7.) Magna Charta made and granted to the *English Saxons?* contained in the *second Law* here Transcribed; Why, it was the *same* King, and the *same* Common Council of the *whole Kingdom*, that gave *Hereditary Lands* to all the *Freemen* of the *whole Kingdom* to *support* and *maintain* their *Military Services* in the fourth Law, that granted to all the *Freemen* of the whole Kingdom in the second Law to *hold* their *Lands* and *Possessions* well and in peace, free from all injust *Exactions* and *Tallage* by *Hereditary* Right for ever. And *therefore*, we say, that all the *Freemen* of the *whole Kingdom* in the *fourth* Law, and all the *Freemen* of the *whole Kingdom* in the *second* Law, were the *same* Persons; that is, such as *held* their Lands *by Knights Service* and *English-Normans*. That these were *both Feudal Laws*, their *Titles* do sufficiently prove; and that they were *granted* to his *Feudataries* or *Vassals*, King *Williams Direction* of them is a *clear Testimony*. D E

(8.) See *Glos. sar.* in the word *Homo*.

(9.) *Lambard*, *f.* 170.

Willielmus Dei Gracia Rex Anglorum, *Dux* Normannorum, *omnibus* (8.) *hominibus suis* Francie & Anglie *salutem*. If his *Men* or *Vassals* of *France* had no Interest, nor nothing to do in *England*, how could the *English Laws* affect them? for the Resolution of this Point, see the words *Franci & Angli*, *&c.* in the *Glossary*; 'Tis in Sir *Roger Twysdens* Copy, (9.) *Omnibus hominibus suis* Francis & Anglis *salutem*, which makes no difference, as to the sense and meaning of the words. For the further explication and understanding of these Laws, F

Laws, see the Answer to Mr. *Petyt*, *fol.* 17. E. *&c.* and the *Glossary* in the words *liberi Homines*, *&c.*

From the *Title* of King *Williams* Laws, he *proceeds* to the *confirmation* of them, and *patches* up a pretty (1.) Tale from *four* different Stories (which have *no dependency* one upon another) to acquaint us with it (as he says) in all the necessary particulars. *Antinorm. p.* 25.

William the First (quoth he) (2.) with his *French* and *Normans*, putting many *hardships* upon the *English*, which *occasioned* great *Disorders* and *Convulsions* in the State, several of the *Saxons* chief Nobility betook themselves to Arms, for the *sake* of their *avitæ Consuetudines*, to which they bore an *immutable* and *immortal* Love, and which they feared some were endeavouring to take away, and change them; though on the other hand they were obstinately resolved never to part from them, for they had (3.) **à Majoribus didicisse aut Libertatem, aut Mortem,** and they would rather undergo the worst Calamities of a Cruel War, than they would *tamely quit* and *abandon* those dear Laws and Customs to which they had so long been used; for this Story he cites (4.) *Seldens* Titles of Honour, *fol.* 523. who *relates* it out of *Malmsbury*, and tells it of a Quarrel between the *Northumbrians* and their *Earl Tosti*, some years before the Conquest; And it was thus, (5.) King *Edward* after the death of *Siward* made *Tostin Earl* of *Northumberland*, who by his *rough temper* forced the People into *Rebellion*, and finding him without an Army *drove* him out of the *Country*, killed his Men or Vassals, both *Danes* and *English*, seizing upon their *Horse* and *Arms*, and all their Goods; which being *reported* to the King, he sent *Harold* to *Chastise* them. The *Northumbrians* though not inferior in number, *consulting* their own *quiet*, excuse the Fact, saying, *Se homines libere Natos, libere Educatos, nullus Ducis ferociam pati posse*, **à Majoribus didicisse aut libertatem aut mortem,** and if the King would have them obedient, he should send *Morchar* the Son of *Algar* for their *Earl*. *Harold considering* the *peace* of the *Country*, more than the *profit* of his Brother, *withdrew* his Army, and coming to the King, *fixed* Morchar in the Earldom.

(2.) Ibidem.

(3.) Ibidem, *p.* 26.

(4.) Ibidem.

(5.) *Malmsb. f.* 46. *b. n.* 10. The Story of Earl *Tosti* and the *Northumbrians*.

Upon this *Fundamental* Story, as he himself hath told it, he *builds* his following Discourse, and proceeds in these words. (6.) The King hereupon, to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused *twelve* of the *most Discreet* and *Wise Men* in *every Shire* throughout all *England* to take an *Oath* before himself to deal sincerely and uprightly without turning either *ad dextram*, or *sinistram*, that is, neither to flatter Prerogative or extend Priviledge, and to declare and lay open the Constitutions of their Laws and Customs, without concealing, adding, or in any sort varying from the Truth. Thus far Sir *Edwards Citation* out of *Litchfields Chronicle*, and his Explication of it, and here he *leaves* him, and *applies* himself to the Story as 'tis to be found in *Lambards* Laws, *fol.* 149. and gives the (7.) Sum of it. That the *English* vehemently beseeched King *William*, that they might retain their own Laws, and old Customs, in which their Fathers lived, and they were born and bred up in. He (8.) *finding there was no Remedy*, though he was long *Resolute*, at

(6.) *Antinorm. p.* 26. and Sir *Edw. Cokes* Preface to the Eighth Report, out of *Litch.* Chron.

(7.) *Antinorm. p.* 27.
(8.) Ibid. *p.* 28. This is his own, no such thing in the *Litch.* Chron. or in King *Ed.* Laws. *Tit. lex Nor.* nor in *Hoveden.*

at last in a *Common Council* of his Kingdom yields, and by his *Magna Charta*, the ground work of all those that after followed, he *confirmed* to them *their ancient Laws*; Here he is in with Sir *Edward* again, but mangles him, (9.) for he *affirms*, that *Ingulph* saith, the *Laws* in *Litchfield Chronicle* were by publick Proclamation declared Authentick, and for ever, under grievous Punishment, to be inviolably observed. The (1.) *Sum* of which, composed by *King William* into a *Magna Charta*, (the *ground work* of all those that after followed) he blessed with the *Seal* of Security, and *Wish* of Eternity, *closing* it up with this general, *And we further Command that all Men keep and observe duely the Laws of King Edward.* After this he *passeth* on with Sir *Edwards* Citation, in his own words, until he comes himself to the Testimony of *Ingulph*, which he also produceth to prove, that the *Laws* in the *Litchfield Book* were *proclaimed* as Authentick and to be observed, immediately after his Citation of Sir *Edward* and the *Litchfield* Book, saying, (2.) *Ingulphus Secretary* to *William* in *Normandy*, and afterwards made *Abbat* of *Crowland* by him, is an *unexceptionable* Witness, to prove that the *English Laws* were then anew *confirmed*, and so goes on with his Testimony as I have before Transcribed it; and adds after it, that *this Proclamation* was not all (to allay the *Storms* which perhaps the *violation* of these Laws had raised) and cites *Mat. Paris* in the lives of the Abbats of St. *Albans*, *fol.* 48. that King *William* *sware* upon all the *Reliques* of that Church, touching the holy Gospel, Abbat *Frederic* administring the Oath, inviolably to keep the good and approved old Laws of the Realm, which the Holy and Pious Kings of *England* his Ancestors, and especially King *Edward* set forth.

(9.) Preface to the Eighth Report.

(1.) *Ibid.* the very next words.

'Tis very much to be suspected by what Sir *Ed. Coke* says here, that he never saw either *Litchfield* Book, or *Ingulph*'s Copy of King *Edwards* Laws.

(2.) *Antinorm. p.* 29.

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B

C

Before we can come to his Fragment out of *Matth. Paris*, we must remark upon the *Litchfield* Story antecedent to the Laws themselves, first, that 'tis to be found in *Hoveden*, but not intire, part in *fol.* 343. *a. n.* 10. and part in *fol.* 346. *b. n.* 50. and *fol.* 347. *a. n.* 10, 20. in *Edw.* the Confessors Law, also in *Lambard*, *fol.* 138. *c.* 1. and in *fol.* 149. *Tit. lex Noricorum*, it is to be found in two parts, which put together do intirely make up that Preface. Secondly, That our Author hath omitted the date of, or time when *William* granted these Laws, which *Hoveden*, the *Litchfield* Book, and *Edward* the Confessors Laws say was, *Anno quarto Regni sui*, in the fourth year of his Reign. Thirdly, That *Ingulph* says they were the *Laws* which he brought with him from *London* in the *twentieth* year of King *William*, that he had by Proclamation caused to be observed. Fourthly, That these were *not* the *Laws* contained in the Book of *Litchfield*, which Mr. (3.) *Selden* says were only part of those Laws that are published in *Hoveden*, and that this part is to be found in (4.) *Hen. de Knighton*; and whoever will take the pains to compare them with those in (5.) *Hoveden*, he will *find* they contain but the *first* fifteen *Titles* or *Chapters*, and are the very same also with the *first* fifteen *Chapters* of those Laws printed in *Lambard*, under the *name* and *title* of King *Edwards* Laws, and both in *Hoveden* and *Lambard*, the Laws are near thrice the number of these in *Knighton*, nor are they, and the Laws in *Crowland* Copy, scarce in any Points or Chapters alike. Fifthly, And that therefore this Testimony of *Ingulph* cannot be brought by our Author, or any Man else, to prove the Grant or Confirmation of King *Edwards* Laws, as they are to be found in the

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F

King *William* never confirmed the Laws in *Litchfield* Chronicle.

(3.) *Not. ad Eadm. fol.* 171. *n.* 40, 50.

(4.) *Col.* 2354. *n.* 60.

(5.) *Fol.* 343. *a. n.* 10.

the Books above mentioned; it having not the leaſt Reference to them, nor is it probable that ever *Ingulph* heard of them, or that King *William* ever cauſed Proclamation to be made, that thoſe Laws ſhould be obſerved.

A Mr. *Selden* doth not only tell us what the *Laws* were in the *Litchfield* Manuſcripts, but writes very (6.) ſuſpiciouſly of all the Laws that are attributed to King *Edward*, except the *Crowland* Copy, and ſays their *Credit* is *ſuſpicious*, that would *obtrude* upon us *other Laws* than thoſe for King *Edwards*, and that 'tis very likely there was made but *one Review* and *Confirmation* of his *Laws* by King *William*; and if there were any *more* than *one*, yet the *laſt* was only to be *allowed* and *eſteemed* Authentick, which was *Crowland* Copy.

(6.) *Not. ad Eadm. f.* 172. *n.* 10, 20. *Crowland* Copy the only Authentick Copy of King *Edwards* Laws confirmed by King *William*.

B After this we come to the *Story* of *Abbat* (7.) *Frederic* in *Mat. Paris*, which concludes the *Tale* of the *Confirmation* of King *Edwards Laws* by King *William*; as his conſtant manner is, our Author gives us but a *ſhred* of it, yet I think 'tis as much as Sir *Edward Coke mentions* of it, and the ſame words only. The whole is thus. King (8.) *William armed with his own and the Papal Power, began to deal more ſeverely with the* Engliſh, *and they ſeeing their Lives lie at ſtake, conſpiring together, raiſe a numerous* **Army**, *and meeting at* **Berkhamſtede**, *placed* **Edward Ethelinge** *at the Head of them. The* C *great* **Promoter** *of this Deſign was* **Frederic** *then* **Abbat** *of St.* Albans, *but by the Eccleſiaſtical Power and Mediation of Arch-Biſhop* **Lanfranc**, *after much Debate he obtained of* William, *(who vehemently feared, he might loſe the Kingdom he had gotten with ſo great Effuſion of Blood) to* **Swear** *upon the Holy Goſpels, and the Reliques of the Church of St.* Albans, *That for the good of Peace, he would* **obſerve** *the* **good**, *and* **approved**, **ancient Laws** *of the Kingdom, which the Pious Kings of* England, *and eſpecially King* **Edward** *had inviolably* D *obſerved.* **Frederic** *adminiſtring the* **Oath**, *with which they were all ſatisfied, and returned to their own homes.*

(7.) *Arg. Antinorm. p.* 30. *Cokes* Preface to the Eighth Report. *Fus Angl. ab antiquo, p.* 139. 148.
(8.) *Mat. Paris, f.* 48. *n.* 20, 30, 40. The Story of *Frederic* Abbat of St. *Albans*. The *Engliſh* would have made *Edward Ethelin*g King.

But he *craftily concealing* his Intentions, within a few days *privily* and *ſuddenly* ſurprized them when *ſingle* and *diſperſed*, who being *united* in a Body, he could not overcome; many he *put* to *death*, from others he *took their Eſtates*, and very many he *Baniſhed*, *violating* the *Law* he had *ſworn* to obſerve, taking away their *Eſtates* E at his own *pleaſure*, without *judicial proceedings*, thereby *impoveriſhing* the *Natural Engliſh*, and *enriching* his *Normans*.

William violates his Oath, deſtroys the *Engliſh*, and takes away their Eſtates.

Edward Etheling (9.) fled into *Scotland*, many of the *Noble Engliſh* fled into *Denmark*, and ſome into *Norway*, being no way *willing* to *ſubmit* to the *Yoke* of *Norman Servitude*. (1.) Abbat *Frederic* mightily fearing leſt the *King* or his *Lanfranc* ſhould take *notice* of him, as the *chief Encourager* of the *Engliſh*, and ſo either put him to F *death*, or *keep* him in Priſon, by *leave* and *advice* of his *Convent* took with him ſome Books and other Neceſſaries, and fled privately into the *Iſle* of *Ely*, where after ſome ſhort time, he grew very infirm and *died*, after whoſe death *William* kept the Monaſtery of St. *Albans* in his own hands, cutting down the Woods and impoveriſhing the Tenents; and unleſs he had been reſtrained by the *corretions* of *Lanfranc*, had irrecoverably *deſtroyed* the whole Monaſtery, who at length

(9.) Ibidem. *Edward Etheling* and the *Engliſh* fly.
(1.) Ibid. *f.* 49. *lin.* 4. *n.* 10, 20. *ne Rex vel ſuus Lanfrancus.*

Abbat *Frederic* flies into the Iſle of *Ely* and dies.

length procured his *Kinſman Paul* a *Monk* of *Caen* in *Normandy*, that he had brought over with him, to be *made* Abbat, (2.) on the Twenty eighth of *June* 1077. in the Eleventh year of King *William* the (3.) Conqueror, (4.) *Hic fuit primus Abbas hujus Eccleſiæ, poſtquam* **Anglia Normannis** *fuit* (5.) **penitus ſubjugata.** This was the firſt Abbat of this Church after *England* was *wholly ſubdued* by, or put under the *Yoke* of the *Normans*.

(2.) Ib. *n.* 30.

(3.) Ibidem.
(4.) Ibidem.
(5.) Ibidem. *England* wholly ſubdued by the *Normans*.

A

After the Reader hath *conſidered* what a *miſerable* Story he hath patcht up out of *fragments partially cited*, concerning the *Confirmation* of *Edwards* Laws, he will be able to judge whether there be any *reaſon* for his *Triumphal Concluſion* of it, in the very next words after. Thus (6.) we ſee (quoth he) the *mighty Conqueror* **Conquered,** *and ſolemnly renouncing all Arbitrary* **Will** *and* **Power,** *ſubmits his* **Will** *to be* **regulated** *and* **governed** *by Juſtice, and the* **ancient Rights** *of the* **Engliſh:** 'Tis *preſumed* before his *ſecond Triumph*, or the *ſecond Edition* of his *idle* Frontiſpice, with the *Explanation* of it, or of the *Romantick* Poetry to the Learned Author, *he will make it appear*, that King *William kept all his Oaths* and *Promiſes* he *made at his Coronation*, and at *all other times*, and that the *Natural* or *Saxon-Engliſh* really and truly enjoyed the benefit of them.

(6.) *Arg. Antinorm. p.* 30.

B

After this *Story* of the *Confirmation* of King *Edwards* Laws, * he harps upon the *ſignification* of the word *Conqueſtus*, and would have it ſignifie Purchaſe, as it doth in the *Feudal Law*, *Antiquum* (7.) *feudum id dicitur, in quo quis patri, avo, vel alicui Majorum ſuccedit, Novum dicitur Quod in perſona ejus, qui primus illud acquiſivit initium Capit, nec ex ſucceſſione majorum provenit, Scoti Conqueſtum, Angli* **purchaſe** *vocant.* It is ſaid to be an *Ancient Fee*, in which any one ſucceeds his Father, Grandfather, or any of his Anceſtors. A *new Fee* is that which takes beginning in the *perſon* of him that firſt bought or had it, and which was not from the ſucceſſion of Anceſtors. The *Scots* call this *Conqueſt*, the *Engliſh Purchaſe*. Again *Antiquum* (8.) *Feudum hæreditas, novum Conqueſtus, dicitur ab Anglis, & Normannis* **Pourches.** An *Ancient Fee* is called an *Inheritance*, a *new* one *Conqueſt*; The *Engliſh* and *Normans* call it Pourches, from the firſt Purchaſer or Conqueror, for when 'tis (9.) tranſmitted to his Heir, it then becomes an Inheritance. This is the meaning of the word in private Caſes, and in private Eſtates or Fees, but it cannot be *with any colour referred* to a *Kingdom* that was *ſubdued* by force. He is deſired *to let us know of whom William purchaſed this Nation, and what he gave for it.*

* *Arg. Antinorm. p.* 31. His ridiculous Expoſition of the word *Conqueſtus.*
(7.) *Cragius de feud. f.* 55.

(8.) Ib. *f.* 242.

(9.) *Skene in verbo Conqueſtus.*

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E

The *Textus Roſſenſis* gives us in our preſent Caſe the true meaning of the word in the beginning of the Relation of the *Plea* at *Pinenden*, between Arch-Biſhop *Lanfranc* and *Odo* Biſhop of *Bayeux*, (1.) *Tempore Magni Regis Willielmi qui Anglicum Regnum* **armis Conquiſivit,** *& ſuis ditionibus ſubjugavit, Contigit, &c.* In the time of great King *William* that *Conquered England by Arms*, and brought it under his *Yoke* and Dominion, it happened, *&c.* We may with other *Circumſtances* believe and rely upon this, as the moſt true *ſenſe* of the word *Conqueſtus* in this Caſe, and think that the *French Monk Ernulph* that wrote it, who was (2.) *Conſecrated* Biſhop of *Rocheſter* in the year 1115. not fifty years after *William* was poſſeſſed of

(1.) *Text. Roſſen.* cited by *Seld.* in *Not. ad Eadm. f.* 197. *n.* 40.

(1.) *Text. Roſſ. p.* 168. *Malmſb. f.* 133. *a. n.* 10. *Godw. p.*

F

of the Kingdom, underſtood the meaning of it, better than ſuch as wrote two, three, four, or five hundred years after him, or Men of yeſterday.

This is a *ſufficient Anſwer* to what he brings out of Sir *Henry Spleman*, and Sir *John Skene* upon this word; but ſtill there is a notable Authority behind which he fetcheth from (3.) *Mat. Paris*, *f.* 941. *n.* 40, 50. his words out of that Hiſtorian are theſe, *Rex Angliæ ex Conqueſtu, dicitur tamen quod beatus Edwardus, eo quod hærede Caruit, Regnum legavit Willielmo Baſtardo, Duci Normannorum.* He makes no inference from theſe words, nor indeed can he, to his advantage; and if he had not concealed what went before, and what followed them, any Man might wonder why he cited this place to juſtifie his Expoſition of the word *Conqueſtus*.

(3.) *Arg. Antinorm.* p. 1.

Paris, reckoning up the *Eccleſiaſtick* and *Lay Peers* of *France*, ſays *Dux Normanniæ, primus inter laicos & digniſſimus*: *Rex Angliæ, Dux eſt de* **Jure** *Normanniæ,* **Sanguinis deribatione genitali**; *Rex ex* **Conqueſtu,** *dicitur tamen, quod beatus Edwardus eo quod hærede Caruit, Regnum legavit Willielmo Baſtardo Duci Normannorum. Sed hoc robore aſſeritur Caruiſſe; quia hoc fecit in lecto lethali, & ſine* **Baronagii** *ſui Comuni aſſenſu.* That is, the Duke of *Normandy* the firſt, and moſt worthy of the Lay Peers. The King of *England* is *Duke* of *Normandy* by *Right* of *Blood*, King by *Conqueſt*; yet 'tis ſaid that St. *Edward*, becauſe he *wanted* an Heir, *bequeathed* the *Kingdom* to *William* the Baſtard Duke of *Normans*. But 'tis *affirmed* this *wanted Strength*, for that he did it in his Death Bed, and without the *common aſſent* of his *Baronage*. Whoſoever *conſiders* the *word Conqueſt* in this place, as it ſtands in oppoſition, both to *Right* by *Blood*, and *Right* by *Donation*, and as it *refers* to King *Williams obtaining* the Kingdom of *England*, cannot *interpret* it otherwiſe, than that it was a *Conqueſt by Arms*. Therefore this Authority is directly againſt him, but 'tis uſed according to his common underſtanding.

His Partial Citation of *Mat. Paris.*

Laſtly, Conſidering that his *interpretation* of the word *Conqueſtus* might yet remain *dark* and *obſcure*, for the better (4.) illuſtration of it, to diſabuſe the World in this point, he gives the Gentleman for *whoſe ſatisfaction* he wrote this Diſcourſe, a *ſummary Series* of the *Stiles* of the ſeveral *deſcendent* Kings, from *William* the Firſt, inclusively to *Edward* the Third, which are only, *Willielmus Rex Anglorum, Willielmus Rufus Rex Anglorum, Stephanus Rex Anglorum, Richardus Rex Angliæ, Johannes Rex Angliæ, Dominus Hiberniæ, Hen. filius Johannis Rex Angliæ, Edwardus Rex Angliæ, Edwardus filius Edwardi Rex Angliæ, Edwardus Rex Angliæ tertius poſt Conqueſtum.* This is his *ſummary Series*, and if it be well obſerved, 'tis a *notable Illuſtration* of his *Expoſition* of the word *Conqueſtus* in his ſenſe, that *eight* or *nine* Kings after him, and King *William* himſelf, *ſtiled* themſelves *ſometimes*, Kings of the *Engliſh*, and *ſometimes Kings* of *England*, and that in this *caſe* it ſignifies only *Purchaſe* and not *Conqueſt* by Arms.

(4.) *Arg. Antinorm.* p. 34, 35, 36.

His impertinent uſe of the Stiles of the *Engliſh* Kings.

For a further (5.) proof, that King *William* did not *cancel* and *aboliſh* all the *Engliſh Laws*, (when no Man aſſerts that he did) nor change, as is ſo much affirmed, the *whole Frame* and *Conſtitution* of the

(5.) *Arg. Antinorm.* p. 37.

the Government, he *ſhrowds* himſelf under the *Judgment* of Mr. *Selden*, and the *Opinion* of Sir *Winſton Church-hill*, ſuch *unqueſtionable Authorities* (he ſays) as may ſufficiently ballance, if not totally *depreſs* the fierceſt of Gainſayers. He begins with Mr. *Seldens Diſcourſe* upon this Controverſie in his (6.) *Review* of the Hiſtory of Tithes, which is *retailed* and *vented* in *parcels over and over again in this Diſcourſe*, Mr. Petyts *Ancient Rights of the Commons Aſſerted*, and all that treat upon this Subject, and therefore I ſhall give no other Anſwer to it, than what the Reader may find *to the ſeveral Particulars of it*, in this *Anſwer*, and in that to Mr. *Petyts* Book juſt before mentioned. And as to what the very *Worthy* and *Learned* Gentleman Sir *Winſton Church-hill* hath ſaid, he is yet *living*, and is *beſt able* to *explain* his own meaning. A

(6.) *Pag.* 482, 483, 484.

The next (7.) *proof* he brings, that the *Natives* had their *Laws* continued to them, is the *Authority* of (8.) *Florence* of *Worceſter* in theſe words, *Henricus primus omnes malas Conſuetudines, & injuſtas Exactiones, quibus Regnum Angliæ injuſte opprimebatur, abſtulit, pacem firmam in toto ſuo Regno poſuit, & teneri præcepit. Legem Regis Edwardi omnibus in Comuni reddit, cum illis* **Emendationibus**, *quibus pater ſuus illam Emendavit.* B

(7.) *Arg. Antinorm.* p. 54.
(8.) *Fol.* 650.

Henry the Firſt took away all ill *Cuſtoms* and unjuſt *Exactions*, with which the Kingdom of *England* was *oppreſſed*, and *ſettled* a *firm Peace* in the Nation, and Commanded it ſhould be kept; He *reſtored* the *Law* of King *Edward* to all in common, with thoſe *Emendations* with which his Father had mended it; or as Sir *Edw. Coke* (9.) ſays, with thoſe *amendments* which his Father *added* by the *advice* of his Barons. C

(9.) Preface to the Eighth Report.

In that Preface Sir *Ed.* cites *Hoveden*, whoſe (1.) words are the *ſame* with thoſe of *Flor.* of *Worceſter*, and inſiſts much upon it there, That *Henry* the Firſt did *reſtore* to the *Engliſh* their *Laws* and *Cuſtoms*, and *aboliſhed* all Evil Cuſtoms; and otherwhere he (2) ſays the good King *Henry* the Firſt, Son of the Conqueror *finding* that the *Wardſhip* of the *Body* and *Lands* of his *Tenents* by *Knight Service*, exacted by his Father, was both *grievous* and *unjuſt*, by his *Great Charter*, *Anno Regni ſui primo*, Reciting, *quod Regnum ſuum oppreſſum erat, injuſtis exactionibus, &c.* (and particularly *tempore patris ſui*) *did grant* (amongſt other things) *Quod ſi Uxor cum liberis remanſerit, dotem ſuam & Maritagium habebit, dum corpus ſuum legitime ſervabit, & eam non dabit niſi ſecundum velle ſuum, & terræ & liberorum Cuſtos erit, ſive uxor, ſive alius propinquior, &c.* To be ſhort, by that *Golden Charter*, *omnes malas Conſuetudines, Quibus Regnum Angliæ injuſte opprimebatur inde abſtulit, & lagam Regis Edwardi reddidit.* D E

(1.) *Fol.* 268. *b. n.* 10.

(2.) *Inſtit.* 4. *f.* 193.

Sir *Edward Cokes* mangling of *Henry* the Firſt his Charter.

This great Man makes ſhort work with a great *Golden Charter*, but it muſt not paſs ſo, *leſt* it be upon the *making* another Diſcourſe ſuch as this, *returned* in *fragments*; and it's neceſſary ſomething be ſaid of the *occaſion* of it, before we *inquire* into the *nature* of the *Charter* it ſelf. F

He makes ſhort work with it.

This

This *Henry* was a *meer Usurper*, the youngest Son of *William* the Conqueror, his eldest Brother *Robert* Duke of *Normandy* then *alive*, and gone in an (3.) *Expedition* to the Holy Land, and being upon his (4.) return, he made what haste he could to make himself King, before it should be *known* to the *Nobility*, his *Brother* was *safe* and returning home; and as a *means* to accomplish his purpose, (5.) immediately sent upon the death of his *Brother William Rufus*, his *Edict* through *England*, and prohibited the unjust Institutions of him and *Ranulph* Bishop of *Durham*, the great Oppressor of the People under him.

Henry the First an Usurper.
(3.) *Paris, f.* 55. *n.*
(4.) *Ibid* his Policy.
(5.) *Ibidem.*

After which calling together (6.) the *Clergy*, and *People* or *Laity*, at *London*, and promising to them the *amendment* of the Laws, by which in his *Fathers* and *Brothers* time the Nation had been oppressed, he so *reconciled* the *minds* of all to him, that they *received* him as their King and Patron, who on the day of his (7.) Coronation, *granted* them this *Charter* (and would have *granted* any thing else without doubt rather than not have been King) under his *Seal*, and *divulged* it to be kept as a *Monument* through the whole Kingdom; or as (8.) *Mat. Paris*, to be *preserved* as a *Monument* in the *Abbies* of every County. The *Charter* it self here follows.

(6.) *Paris, Ibidem.*
(7.) *Eadm. f.* 55. *n.* 40.
(8.) *Fol.* 56. *n.* 30.

Henricus (9.) *Dei Gratia Rex Angliæ* * **Hugoni** *de* **Bocland** *vicecomiti, & omnibus fidelibus suis tam* **Francis**, *quam* **Anglis** *in* **Herefordscyre** *salutem. Sciatis me Dei misericordia, & Comuni Consilio* **Baronum** *Regni Angliæ Regem esse Coronatum, & quia* **Regnum** *fuit* **Oppressum** *injustis Exactionibus, ego Respectu Dei & Amore quem erga vos omnes habeo,* **Sanctam** *Dei* **Ecclesiam liberam** *facio, Ita Quod nec eam* **vendam**, *nec ad* **firmam** *ponam, nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam de Domino Ecclesiæ, vel de hominibus, donec successor in eam ingrediatur. Et omnes malas Consuetudines, quibus Regnum Angliæ injuste opprimebatur, inde aufero quas Malas Consuetudines in parte hic pono.*

The Charter of *Henry* the First.
(9.) Ibid. *f.* 55. *n.* 40.
* *Hugh de Bocland* was a *Norman*, and a mean Person preferred by King *Hen. Order. Vit. f.* 805. B.

Sanctam Dei Ecclesiam liberam facio ita quod nec eam vendam, &c. Here he explains himself, what he meant by making the Church free, *Rufus* by his Instrument *Ranulph* aforesaid, *contrary* to *Ecclesiastical Right*, (1.) when Bishops and Abbats died, *sold Bishopricks* or *Abbies* to those would give most for them, or let them to farm, and by that means every year brought him in a great Sum of Money, and at the time he was slain, he *had* in his *hand* (2.) the *Arch-Bishoprick* of *Canterbury*, and the *Bishoprick* of *Winchester*, and *Salisbury*. *Nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam, &c.* Neither upon the *death* of an *Arch-Bishop*, *Bishop*, or *Abbat*, will I take any thing of the *Fee*, *Royalty*, or *Demeasns* of the Church, (Lands which the Bishops and Abbats kept in their own hands) nor of their Men, (that is, their Tenents, Vassals, or Usufructuaries) until a Successor be placed in it.

Ranulph Bishop of *Durham*, *Rufus* his Instrument.
(1.) *Flor. Wigorn. f.* 649.
(2.) *Ibid.* 656.

Et omnes Malas Consuetudines, &c. These ill Customs with which the *Kingdom* was oppressed were since the Conquest, for of the *Laws* or *Taxes* or *Customs* before that time, the *Monks* that wrote the History of those times complain not; Therefore the *ill Customs* here to be amended *grew* in his *Fathers* and *Brothers* Reigns; and by what

follows in this Charter, it may be easily conjectured, they were chiefly, if not *only*, the *not allowance*, or *observation* of the 55th *Feudal* and *Additional Law* of the *Conqueror* to *those* of *Edward* the *Confessor*, in which it was provided they should *hold* their Lands well and in peace, *free* from all *unjust Exaction*, and all *Tallage*. The ill *Customs* here meant were therefore the *Exactions* and *Usages* of his *Father* and *Brother*, and they could be *no other* as is evident by the words immediately following, (*Quas Malas Consuetudines hic in parte pono.*) This *Charter* being for the most part a *Relaxation* and *Abatement* of *Feudal* Impositions almost every where in all Nations of *Europe*, according to that *Law allowed* and *practised*. A

(3.) *Lamb. f.* 170.

Customs in this Charter are Payments or Exactions.

Si quis **Baronum** *meorum* **Comitum** *vel aliorum, qui de me Tenent, Mortuus fuerit, hæres suus non redimet Terram suam sicut facere Consuerat tempore patris mei, sed justa & legitima Relevatione relevabit eam, similiter & homines* **Baronum** *meorum legitima & justa Relevatione Relevabunt terras suas, de Dominis suis. Et si quis* **Baronum**, *vel aliorum* **hominum** *meorum, filiam suam tradere voluit, sive sororem sive neptem, sive Cognatam, mecum inde loquatur, sed neque ego aliquid de suo, pro hac licentia accipiam, neque defendam ei Quin eam det,* **Excepto**, *si eam dare voluerit inimico meo, & si mortuo Barone vel alio homine meo filia hæres remanserit, dabo illam cum Consilio* **Baronum** *meorum cum terra sua, & si mortuo marito uxor ejus remanserit, & sine liberis fuerit, dotem suam, aut Maritagium habebit, & eam non dabo marito, nisi secundum* **velle suum**, *si vero uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum Corpus suum legitime servabit; Et eam non dabo, nisi secundum* **velle suum.** *Et terræ liberorum* **Custos** *erit, sive uxor, sive alius propinquior, qui justius esse debet, & præcipio ut homines mei, similiter se Contineant, erga* **filios & filias, & uxores** *hominum suorum.* B

This Paragraph a Relaxation of the Rigor of the Feudal Law.

This Paragraph, and indeed the whole Charter, is only a Relaxation of the Feudal Law used at this time in *Germany*, *France*, *Normandy*, *Italy*, and all the *Europian* Nations, as any that ever heard of, though he hath not throughly read them, must acknowledge; and it's evident this Charter was not a Declaration or Restitution of any old Laws or Customs, but a meer Relaxation or Abatement of the Feudal *Norman* Law, practised by his Father and Brother, in exacting great Reliefs, and concerning the Wardship of Orphans, and disposing of them, and Widows in Marriage. If Relief, Wardship, and Marriage, be three necessary Consequences, and undoubted Marks of Feudal Tenure, (as I think no body can deny it) then was this Paragraph undoubtedly, only a making easie those three main Consequences of such Estates, and granted by an Usurper that was to deny nothing. C D E

Monetagium *Comune quod capiebatur, per civitates vel comitatus quod non fuit tempore Edwardi Regis*, (that is, which only was in the time of his Father and Brother) *hoc ne amodo fiet omnino defendo* (I altogether forbid.) F

(4) *Grand. Cust. c.* 15. *Monetagium* taken of, and what it was.

Monetagium here, (4.) Moneage in *Normandy*, was an Aid or Duty paid to the Duke of *Normandy* once in three years, that he should cause, or suffer the current Money of *Normandy* to be changed.

changed. Which was paid by all in *Normandy* that had Moveables, or Rents of such a value, and had Residence or a Fire Hearth there; except the Clergy, Chevaliers, or Tenents in Military Service, and their Children by their Lawful Wives, and others there excepted. 'Tis probable this Imposition was brought into *England* by his Father, and continued by his Brother, and laid upon Military and Clergy Men as well as others, and was taken off by this Clause of the A Charter.

Omnia Placita & omnia Debita, Quæ Regi fratri meo debebantur, **Condono,** *exceptis firmis meis, & exceptis illis quæ facta erant pro aliorum hæreditatibus, vel pro illis rebus quæ justiciis alios Contingebant; Et si Quis aliquid pro hæreditate sua pepigerit, illud Condono & omnes Relevationes, quæ pro rectis hæreditatibus pactæ erant.*

He Pardons all Debts in the Exchequer and Punishments due to his Brother.

B *Placita* here signifies Penalties, Mulcts, or Emendations, according to (5.) *Gervase* of *Tilbury*, or the Black Book in the Exchequer. *Placita autem dicimus pœnas pecuniarias, in quas inciduut delinquentes.* See *Leges Hen.* 1. *c.* 12, 13. Hence 'twas said anciently, *Comes habet tertium denarium placitorum*, that is, the third part of the Money due upon Mulcts, Fines, or Punishments, as well as other Profits of Pleas.

(5.) *Lib.* 2. *Tit.* 13.

Placita signifies Mulcts.

Of which the Earl had the third part.

C *Si quis* **Baronum** *vel* **hominum** *meorum infirmabitur, sicut ipse dabit, vel dare disposuit, pecuniam suam,* (that is, his Goods and Moveables) *ita datam esse volo.* If any of my Barons or Vassals fall sick, he may dispose of his Stock as he pleaseth; *De feudo Testamenti nulla est factio, Hottom. in lib.* 1. *feud. Tit.* 8. And it should seem by this Clause, that Barons before this Charter could not without Licence dispose of their Personal Estates by Will; *Quod si ipse morte preventus, pecuniam suam nec dederit, nec dare disposuerit, uxor sua* D *liberi & parentes, & legitimi homines sui, eam divident pro anima sua, sicut eis melius visum fuerit.* Yet notwithstanding this Charter, the King or Lord by Law had Intestates Goods and Chattels, in *Henry* the Second's Reign, according to *Glanvill*, (6.) *Si quis vero intestatus decesserit omnia Catalla sua*; When any one dieth Intestate, all his Goods and Chattels are his Lords, if he had many Lords, every one had those found upon his Fee; and the Goods of all Usurers belonged to the King, whether they died Testate or Intestate.

(6.) *Lib.* 7. *c.* 16.

E *Si quis* **Baronum** *vel* **hominum** *meorum, forisfecit, non dabit vadium in miseria pecuniæ suæ*; That is, If any of his Barons or Feudataries forfeited, he should not forfeit, or give Security to answer all his Goods or Moveables, as they did in the time of his Father and Brother, *sed secundum forisfacturæ modum, &c.* but his forfeiture or punishment should be answerable to the nature of his fault. *Quod si* **perfidie** *vel* **celeris** *Convictus fuerit, sicut culpa, sic emendet.* This F Perfidiousness was called **Felony**, (7.) and was a forfeiture of the Fee, but there being degrees of Treachery and Ingratitude, the Feudatary here was to make satisfaction only according to the greatness or smallness of the Crime.

Punishment to be according to the nature of the fault.

(7.) *Hottom. in verb. felonia.* Treachery punished according to the Heinousness of it.

Murdra etiam retro (that is the Money Mulcts, or Punishments due for Murder comitted) *ab illa die qua in Regem Coronatus fui*

Murder penal.

omnia condono; From the day in which he was Crowned he forgave it all. *Et ea quæ amodo facta fuerint juſte emendentur, ſecundum lagam Regis Edwardi*; And for the future the Fine or Pecuniary Mulct for Murder ſhould be the ſame it was in King *Edwards* Laws, which was Forty ſix Marks; See Law 53 of *Seldens*, and Law the 15th of *Lambard*. King *William* and his Son *Rufus*, beſides that they raiſed the Fine or Puniſhment for the Murder of a *Norman*, and put the payment of it more ſtrictly upon the Hundred than before, they alſo puniſhed the *Engliſh* (8.) with ſevere Torments. This Law reſtored the old Fine for Murder as it was formerly. A

(8.) *Gervaſ. Tilbur. lib.* 1. *Tit.* 23.

Foreſtas Comuni Conſilio Baronum meorum, in manu mea ita retinui, ſicut pater meus eas habuit. There were mighty Clamours againſt his Father and Brother, concerning Foreſts, and the Laws and Rules they directed for their Government, yet theſe the Barons allowed and ſubmitted to, ſeeing they were ſmall matters in reſpect of the great Advantages they had by the renunciation of his Feudal Rights. B

The Lands which the Military Men uſed themſelves were not to be Taxed.

Militibus Qui per Loricas Terras ſuas defendunt, Terras **Dominicarum carucarum** *ſuarum quietas ab omnibus Geldis, & omni proprio dono meo concedo.*

(9.) See the *Gloſſary* in the words.

Military Fees are ſometimes called *feoda Loricæ*, (9.) and ſometimes *feoda* (9.) *Haubertica*, *Lorica* ſignifying particularly a Coat of Mail, and *Haubert*, Halbert or Halbard, a Lance, Javelin, or Halbert; which particular words at length either of them came to be uſed for the whole Armour of an Horſeman, which was a Coat of Mail, a Shield, a Sword, Helmet, and Javelin or Halbert: as likewiſe did *Scutum*. To theſe Milites or Chevaliers, he granted their Demeaſns or Lands which they kept in their own hands, and occupied themſelves, ſhould *not* be Taxed; but for others let out to Tenents (1.) they were ſtill liable to Tallages and Impoſitions, which the Tenents paid to their immediate Lords; and for this *Indulgence* he expects. C D

(1.) *Spelm. Gloſſar. in verb. feudum.*

For theſe favours, he expects they ſhould be ready with Horſe and Arms to defend the Kingdom.

Ut ſicut tam magno **Grabamine** *alleviati ſunt, ita equis & armis, bene ſe inſtruant ut apti & parati ſint ad* **ſervitium ſuum**, *& ad defenſionem Regni ſui.* That as they were freed from ſuch great Burthens upon their Eſtates, ſo they ſhould be well furniſhed with Horſe and Arms, ready and prepared for his Service, and for the defence of his Kingdom. This plainly ſhews who were moſtly to receive the benefit of this Grant, his Barons, Chevaliers, Knights, and Military Men, amongſt whom, all or moſt of the (2.) Lands of the Nation had been divided; And after all this he adds, E

(2.) *Append. n.* 10.

Pacem firmam pono in toto Regno, & teneri amodo præcipio; **Lagam** *Regis Edwardi, vobis reddo, cum eis* **Emendationibus**, *quibus pater meus eam emendavit Conſilio Baronum ſuorum.* I ſettle a firm Peace in the whole Kingdom, and Command it to be kept for the future. I reſtore to you the Law of King *Edward*, with thoſe Emendations with which my Father altered or amended it, by advice of his Barons. Theſe were the Laws of King *Edward* which *Ingulph* Abbat of *Croyland* brought with him from *London*, of which enough hath been ſaid before. F

Si

Si quis aliquid de meo, vel de rebus alicujus, post obitum Regis Willielmi fratris mei cepit, totum cito reddatur absque emendatione, sed si quis inde aliquid retinuerit, ille super quem inventum fuerit, graviter mihi emendabit. If any one hath taken any thing of mine, or any other Mans, since the death of my Brother King *William*, he may presently restore it without Punishment, but if he reteins it, and it be found in his possession, he shall be grievously Fined to me.

A

His Testibus, (Mauritio Londinensi Episcopo) he was a *Norman*, King *Williams* (3.) Chaplain first, and then Chancellor. *(Willielmo Wintonienſi Electo)* his name was (4.) *Giffard* and a *Norman*, he was chosen in the time of *Rufus*, in the absence of *Anselm* at *Rome*, but by reason of the (5.) Contest between *Rufus*, *Henry* the First, and *Anselm*, about Investitures, he was not Consecrated, until ten years after his Election, or Designation by *Rufus*. *(Girardo Herefordenſi Episcopo)* he was a *Norman* and Chancellor under King *William* the First, and Second. *(Henrico Comite) Hen.* of *Newborough* Earl of *Warwick*, a *Norman*, and a great Contriver (7.) of *Henry*'s Kingship. *(Simone Comite) Simon Sylvanectenſis, Simon S. Liz.* a noble *Norman* Earl of (8.) *Huntingdon* and *Northampton*. *(Waltero Giffard Comite)* he was a *Norman*, Earl of *Buckingham*, and Brother to Bishop *William*. *(Roberto de Monteforti) (Rogero Bigod)* two known *Normans*, *& aliis Multis*. Not an *Engliſhman* amongst these Witnesses, of which if any Man doubts, let him peruse *Dugdales Baronage*, in the several Names and Titles, *Malmſb. de geſtis pontificum Eadmer*, and the Historians of those times; From whence 'tis more than probable, this Charter was an Indulgence, and an Abatement of the Common Feudal Law, granted to the *Norman Engliſh*, such as lived in *England*, rather than to the ancient Natives, or *Saxon Engliſh*, as it will appear hereafter.

B

C

(3.) *Godw. de preſul.* p. 233.
(4.) Ibidem, p. 269.
(5.) *Ibid.* and p. 92.
(6.) Ibid. *inter. Epiſc. Ebor.* f. 27.
(7.) *Malmſb.* f. 88. *a. n.* 20.
(8.) *Dugd. Baron.* f. 58 *col.* 2.

Not an *Engliſhman* to be found amongst the Witnesses to King *Hen.* Charter.

D This Gentleman (9.) says, it was the powerful and greatest Interest of the *Engliſh* that kept the Crown upon *Rufus* his Head, maugre all the power of the *Normans*, who universally joyned with his Brother *Robert*. Here he must mean the *Engliſh Saxons*, and not the *Engliſh Normans*, or he proves nothing, the truth of which will be examined, when we come to consider the Directions of the Charters of the first *Norman* Kings.

(9.) *Arg. Antinorm.* p. 57.

E

The Third Question.

Whether it be true, that the *Engliſh* had neither Estates nor Fortunes left? but all was divided between the King and his *Normans*.

Arg. Antinorm. p. 58.

F As the two foregoing Questions have not been rightly stated, so neither is this, for 'tis not barely, Whether the *Engliſh* had Estates or not? but, Whether they possessed them in the same manner and condition after the Conquest, they did before? Many *Saxons* had Estates, and the same Lands they held before the Conquest, but after it, they received them from the *Normans*, and held them as their Tenents, and under such Composition, Rents, and Services as they put upon them. See the Answer to Mr. *Petyt*'s *Ancient Rights, &c. f.* 12. A.

The *Engliſh Saxons* that held their Estates, had them upon Terms from the *Normans*.

And

(1.) *Append. n.* 10.

All the Lands in *England* poſſeſſed by *William*, and diſtributed to his Followers.

And 'tis demonſtrable by a (1.) Catalogue of all the Tenents names that held Lands of the King in every County of *England* that was ſurveyed, that the whole Nation was divided between the Conqueror and his *Normans* or Followers; and that whoſoever held any Lands, Manners, or Towns, held them of the Perſons there named, which were all Strangers, ſuch as came in with *William*, or followed him, except perhaps ſome very few Biſhops, Abbats, or Churchmen that had their Lands reſtored again by the Mediation of Arch-Biſhop *Lanfranc*, as is ſhewed in the Preface to the *Norman* Story; and *Taini* or *Miniſtri*, Servants and Rural, or other ſmall Officers, that had ſerved *Edward* the Confeſſor, and were afterward retained by the Conqueror. A

(2.) *Arg. Antinorm.* p. 58, 59.

To make good his (2.) contrary Aſſertion, he again is upon the foil, That King *William* was received upon Terms, and that the *Saxons* had their Laws confirmed and continued unto them, and therefore their Eſtates alſo. This hath been ſufficiently ſpoken to before. B

(3.) Ibid. p. 61, 62. *Petyt's* Preface to *Ancient Rights, &c.* p. 23.

His next (3.) Argument to the ſame purpoſe, is the old thredbare, over-worn Fable of *Sharnborn*; Thus, *Edwin* of *Sharnborn*, and ſeveral others that were ejected out of their Eſtates and Poſſeſſions, went to the Conqueror and told him, that they never either before, or in, or after the Conqueſt were againſt him, either by their Advice or any other Aid, but kept themſelves peaceably and quietly; and this they were ready to make out, which way ſoever the King pleaſed to appoint; whereupon he ordered an Inquiſition to be made throughout all *England*, whether it were ſo, or not, which was plainly proved; Therefore he preſently Commanded, that all thoſe who ſo kept themſelves peaceably in manner aforeſaid, as theſe had done, ſhould be repoſſeſſed of their Lands and Eſtates, as fully and quietly, as they ever held them before his Conqueſt. C D

(4.) Ibidem, p. 63.

This is a Caſe, ſaith our Author, (4.) ſo full to the point, and ſo plain to every common underſtanding in it ſelf, that it would be frivolous to make any deductions from it; and ſo it is, if it had been true. There is no ſuch Plea as this in all *Domeſday* Book, nor any like it, which Survey (as hath been ſaid) was finiſhed in the Twentieth year of the Conqueror, who preſently after went into *Normandy*, and never returned again into *England*, nor is there any ſuch Perſon as *Edwin* to be found in *Domeſday* that held any Lands in *Sharnborn*. See full ſatisfaction given to this in the Anſwer to the *Ancient Rights of the Commons*, f. 11. E. f. 12. A. B. C. E

The partiality and diſingenuous Citations of the Author of *Jus Anglor. &c.*

* *Jus Angl. ab antiquo*, p. 95.

*This Gentleman underſtands not the meaning of *Virgata*, a Virgate was the fourth part of a Hide.

But though there are really no ſuch Pleas as this pretended and ſham Plea of *Sharnborn* in *Domeſday* Book, yet the Author of *Jus Anglorum ab antiquo*, hath endeavoured to make ſome very near, and like unto it, by mangling, partially, and falſe citing ſome Entries in that great Record, by which he pretends to ſhew ſeveral Claims, or * Titles allowed. *Aldredus frater Ode Caluminatur unam virgatam terræ de hoc Manerio & dicit ſe eam tenuiſſe die qua Rex Edwardus fuit vivus & mortuus, & diſaiſitus fuit poſtquam Willielmus mare Tranſiit, & ipſe dirationavit coram Regina inde eſt teſtis ejus Hugo de port & homines de toto Hundredo.* *Aldred* the Brother of *Ode* claims one * Rood of that Maner, and ſays that he held it the day that King F

Edward

Edvard was alive and dead, and was disseised after King *William* passed the Seas; and he recovered it before the Queen. *Hugo de Port* is Witness of it and the whole Hundred.

In *Domesday* Book thus.

Hantescire.

A

N. LIII. *Terra* * *Willielmi* **arcuarii**, *in Sumburn Hund.*

* Domesd. *f.* 48. *b. col.* 2.

Isdem Willielmus tenet Cuntune, Quinque Teini tenuerunt de Rege Edwardo & quo voluerunt ire * *potuerunt Tunc se defendebat pro 4 hidis & dimid. modo pro tribus Hidis, Terra est septem Carucarum, In dominio est una, & 13 villani & 19 Bordarii cum 7 Carucis, ibi molinum de 20 solid. & 8 acr. prati, tempore Regis Edwardi & post valuit quatuor lib. modo septem lib.*

B

* *Id est*, they were not *Servi Dominici*, such as were affixed to the Maner or Service they were in.

Eldredus frater Ode * *Calumniatur* **Unam Virgatam** *Terre de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & & mortuus, &c.* as it is above. Yet notwithstanding this Claim, and his Recovery of this Land before the Queen, he recovered it not as his Propriety, but as Land which he had allowed him for his Service, for it appears under the 69th Title, that this *Eldred* or *Aldred* was one of the Kings Thanes or Servants, and had been one of King *Edwards*, and therefore this Claim makes nothing to his purpose. The Title and Entry is thus.

* Ibidem.

C

Hantescire.

N. LXIX. *Terra* **Tainorum** *Regis, in Bertune Hund.*

Ode * *tenet de Rege Sudtune, &c.*

D

* Ibidem. *f.* 46.

In Sumburn Hundr.

Eldredus * *frater Odonis Tenet* **Dimid. Hidam** *de Rege, ipse tenuit de Rege Edvardo, &* **tunc se defendebat** *pro dimid. Hida modo pro* **una virgata.** *Terra est unius Carucæ in Dominio dimid. cum uno villano & uno Bordario, & dimid. Carucæ, & duabus acr. prati valet & valuit 6 solid.* It is clear from this Title that *Eldred* or *Aldred* the Brother of *Ode* or *Odo*, was Servant both to King *Edward* and King *William*, and that he had one Virgate of Land for his Service in *Sumburn* Hundred, which Virgate was doubtless the same that he claimed and recovered of *William* the Bowyer, lying within the Maner or Town of *Cuntune* in that Hundred also.

* Ibidem, *f.* 50. *b. col.* 2.

E

Next, he says *Hugo de Port* * had his Claim allowed, *Hanc hidam calumniatur Hugo de Port dicens eam pertinere ad sua Maneria de Cerdeford & Eschetune & ibi eam tenuerunt sui antecessores, & hoc testatur totum Hundredum.* This Claim shall be Considered by and by: And the Reader is desired to observe with what partiality and design this piece only of the Record is cited, to abuse the People, when he shall come to this mark ☞ twice placed in the Margin.

* *Jus Angl. ab antiquo*, p. 96.

F

* *Jus Anglorum ab antiquo*, p. 96, 97.

A third is the * remarkable Tryal (as he calls it) between *William de Chornet*, and *Picot*. *In isto Hundredo & in isto Manerio tenet Picot 2. virgat. & dimidium, & istam Terram Calumniatur Willielmus de Chornet dicens pertinere ad Manerium de Cerdeford Feudum Hugonis de Port, per hæreditatem sui antecessoris, & de hoc suum Testimonium adduxit de melioribus & antiquis hominibus Totius Comitatus & Hundredi, & Picot Contradixit suum Testimonium de Villanis & vili plebe, & de præpositis qui* * *nolunt defendere per* **Sacramentum**, *aut per Dei* **Judicium**, *Quod ille Qui tenuit terram liber homo fuit, & potuit ire cum Terra Quo voluit, sed Testes Willielmi nolunt accipere legem nisi Regis E. usque dum difiniatur per Regem.* A

* In the Record it is *volunt*.

* Ibid. p. 97.

In that * Hundred, and in that Maner *Picot* holds two Roods and half of Land; that Land *William de Chornet* claims, saying, it belongs to the Maner of *Cerdeford*, of the Feud of *Hugo de Port* by the Inheritance of his Ancestor, and of this produced his Testimony of the better and ancient of the whole County and Hundred, and *Picot* on the other side brought his Villains, and inferior People and Bayliffs, who will not defend by Oath, or by Gods Judgment, (which he * takes not to be the *Ordeal* but the *Battail*) that he who held the Land was a Freeman, and might go with it whether he would; * Here the County or Hundred Testifies, that the stress of *de Chornets* Cause depends upon the Confessors Law, and so give the Title with him. B

* Ibid. p. 98.

* Ibidem.

C

In *Domesday* Book this Entry follows the Survey and Description of the Maner of *Cerdeford*, which see here a little further at this mark ☞ in the Margin, and then referring to the Maner of *Cerdeford* in *Fordingbridge* Hundred, it is said.

* Domesd. f. 44. b. col. 2. & Seld. Not. ad Eadm. f. 217. n. 10.

In isto * *Hundredo & in isto Manerio tenet Picot duas virgatas & dimid.* [*de Rege*, **Phitelet tenuit** *in* **Alodio de Rege Edwardo** *pro Manerio tunc & modo Geldabat pro duabus virgat. & dimid. Terra est dimid. Caruc. & ibi est cum uno villano, & duobus Bordariis & 10 acr. prati.*] Then it follows, *Istam Terram Calumniatur Willielmus de Chernet dicens pertinere ad Manerium de Cerdeford Feudum Hugonis de Port per* **hereditatem** *sui* **antecessoris**, *& de hoc suum Testimonium adduxit de melioribus & antiquis hominibus totius Comitatus, & Hundredi & Picot Contradixit suum Testimonium de Villanis & vili plebe & de præpositis, Qui volunt defendere per* **Sacramentum** *aut Dei* **Judicium** *Quod ille qui tenuit Terram liber homo fuit, & potuit ire cum Terra sua quo voluit, sed testes Willielmi nolunt accipere legem nisi Regis E. usque dum diffiniatur per Regem valuit 15 sol. & post 8 sol. modo 10 sol.* D E

Observe all between these marks [ ] is left out in the Citation in *Jus Aglorum*, &c.

In that Hundred, and within the Precinct of that Maner *Picot* holds two Virgates and half of Land of the King. *Phitelet* held it in Propriety of King *Edward* for a Maner; Then and now it was Taxed for two Virgates and half, the Land is half a Carucate or Ploughland, and there it is, with one Villan, and two Bordars, and ten Acres of Meadow. F

That Land *William de Chernet* Claims, (he was Tenent to *Hugh de Port* of the Maner of *Cerdeford*) saying, it belongs to the Maner of *Cerdeford*,

Cerdeford, the Feud or Fee of *Hugh de Port*, by the * Poſſeſſion of his * Anteceſſor, and of this he brought his Teſtimony, of the beſt and ancient Men of the whole County and Hundred, and *Picot* contradicted their Teſtimony by Villains, Vile Plebeians, or the loweſt ſort of the People, and Bayliffs, or Managers of Villages or Maners, who offered to prove by * Oath, or by * Battle, that their Teſtimony was true; That is, that he which held the Land before *Picot*, was a Freeman, and might go with his Land whether he would; but the Witneſſes of *William* would not receive, or be urged upon any other Law than King *Edwards*, (which was their ſimple Teſtimony only in this caſe) until it were determined by the King. The Land was worth Fifteen Shillings *per Annum*, afterwards Eight, at that time Ten.

* See the words *hæreditare, & hæreditas* in the Gloſſary.

* See a little further at this mark ☞ in the Margin, how the Authors of *Arg. Antinorm* and *Fus Angl. ab antiquo*, impoſe upon, and abuſe their Readers, by not underſtanding the word Anteceſſor.

* See *per Sacramentum vel Dei Judicium defendere*, in the Gloſſary. The Confidence of the Author of *Jus Anglorum, &c.*

This Gentleman in his Citation omits theſe words, *Picot tenet de Rege, & Phitelet tenuit in Alodio de Rege Edwardo pro Manerio*; From whence, 'tis clear, that at the time of making the Survey *Picot* was in poſſeſſion of the Land, and that he held it of King *William*, and that his Anteceſſor, *Phitelet* which had it before him, held it in Propriety as a Maner of King *Edward*; and though there appears no judgment given with *William de Chernet*, or againſt *Picot* in the Record, yet this confident Perſon makes a ſtrange deduction, which the words cannot poſſibly bear, that * the County or Hundred teſtifies, that the ſtreſs of *de Chernets* Cauſe depended upon the Confeſſors Law, and ſo gave the Title with him. Whereas the meaning of thoſe words, *Sed teſtes Willielmi nolunt accipere legem niſi Regis E.* is very clear, and altogether to another purpoſe, for the Witneſſes of *William* were urged to try the Title by Battle, which way of Trial * was brought in by the *Normans*, and not in uſe here before the Conqueſt, and therefore they would not proceed further than give their Teſtimony, nor uſe any other Law than that *uſque dum definiatur per Regem*, until the King ſhould define or appoint whether they ſhould or not; ſo that for ought what appears by the Record, *Picot* was left in Poſſeſſion, and the Title undetermined, until the King had declared by what Law, whether Teſtimony only, or Battle, the Trial was to proceed.

* *Seldens* Diſcourſe of Duel or ſingle Combate, Printed at *Lond.* 1616. It was left to King *William* to determine whether a Trial was to proceed by Battle or Teſtimony.

By his fourth and fifth Inſtance, he ſays, * 'tis evident, that King *William* did not ſo much as make a new Grant or Confirmation to Men, of what was theirs before, the old Title being ſufficiently firm: * Hence in *Amelbrice* Hundred in *Surrey*, *Tenuit Almaris ſine dono Regis, eo quod* Anteceſſor *ejus Almar tenuit*; *Almar* held without the Kings Grant, becauſe his Anteceſſor *Almar* held it. The true Entry of this Inſtance in *Domeſday* Book is thus.

* *Jus Angl. ab antiquo*, p. 98.

* Ibidem.

Sudrie.

N. XIX. * *Terra Ricardi filii Giſleberti Comitis in Amelbridge Hund.*

* Domeſd *f.* 35. *a. col.* 2.

Picot tenet de Ricardo in Ebſa dimid. Hid. quam tenuit Elmarus *ſine dono Regis, eo quod Anteceſſor ejus Elmar tenuit,* tenet nunc Picotus, *nunc valet V. ſolid.*

Note how partially he cites this.

Surry.

N. XIX. *The Land of* Richard *Son of Earl* Gilbert *in* Amelebrige *Hundred.*

Picot holds of *Richard* half a Hide in *Ebſa* (now *Ebſham*) which *Elmar* held without the Kings Grant, becauſe his Anteceſſor *Elmar* held it, now *Picot* holds it, and now it is worth Five Shillings. A

Theſe *Elmars* both former and later were Invaders, or as we now call them Intruders, they had no Title from the King, and therefore this half Hide was granted to *Picot*, either immediately by the King to hold of *Richard*, or mediately by *Richard*, who was the *Tenent in Capite*, and held ſix Hides in this Maner of *Ebſa*. He is otherwiſe called *Richard de Tonebridge*, and his Father was *Gilbert* Earl of *Brion* in *Normandy*, to whom the Conqueror granted *Tonebridge* in *Kent*, and three Miles round it every way. There were many of theſe Intruders or Invaders, but perhaps more in *Eſſex*, *Norfolk*, and *Suffolk*, than in any other Counties, for in theſe three there are in *Domeſday* Book diſtinct Titles concerning Invaſions, as in *Eſſex* number the 90 Title *Invaſiones*, in *Norfolk* number 66 Title *de Invaſionibus*, and *Suffolk* number 76 Title *de Invaſionibus ſuper Regem*; And under theſe Titles were entred ſuch People as retained their Lands, or had poſſeſſed themſelves of Land, without the Kings grant or knowledge. B C

Domeſday-Book.

His fifth Inſtance, but the ſecond, by which he would prove, That Men held their Eſtates that they had before the Conqueſt, without any Grant or Confirmation from King *William*, is this; * In *Glouceſterſhire*, *Brictic tenet de Rege quatuor hidas in Lechamtone, & Geldant; ipſe duas hidas tenuit tempore Regis Edwardi, & Ordric Tenuit alias duas, Rex Willielmus utramque eidem Brictric Conceſſit pergens in Normaniam.* D

* *Jus Angl. ab antiquo*, p. 99.

Brictric * holds of the King four Hides in *Lechametone*, and they pay a Quit-Rent, he held two Hides in the time of King *Edward*, and *Ordric* the other two, King *William* when he went into *Normandy*, granted them all to *Brictric*; * ſo that *Brictric* enjoyed the other two, not contained in the Kings Grant, upon his prior Title. E

* Ibidem.

* Ibidem.

In *Domeſday* Book thus.

Glowceſtre-ſcire.

N. LXVIII. *Terræ* Tainorum *Regis:* F

In Gitenham Hund.

Brictric * *tenet de Rege quatuor hidas*, and ſo on as above; We find by this Title that *Brictric* was one of the Kings Servants, and held two Hides as ſuch, and he held them of King *Edward* upon the

* Domeſd. *f.* 170. *b. col.* 1.

the ſame Account; King *William* continued him in his Service, and to him the Land he held for that Service, and then gave him two Hides more which *Ordric* held of King *Edward*, who was doubtleſs a Servant to him, and *Brictric* afterwards performed his Service, for which he had the Land. See more of theſe Servants, Miniſters, or Tains and their Tainlands hereafter in this Anſwer, where the Readers patience will be exerciſed with more of this ignorant, confident, A ſelf-conceited Mans wretched abuſing, partial citing, and falſe applying of Records and Hiſtory.

The *Saxons* received no favour from the Conqueror.

And further, that it is not probable there was any ſuch indulgence uſed toward the *Saxons*, as the imaginary and forged favour towards *Sharnborn*, I will produce two Inſtances. Firſt, of *Wulketule* Abbat of *Croyland*, and the Monks of the ſame Monaſtery, who were Diſſeiſed of the Priory of *Spalding* in *Lincolnſhire* and the Lands be- B longing to it. This Priory was founded by (5.) *Thorold (Vicecomes Lincolniæ)* in the year 1052. he gave to it the Maner of *Spalding*, with all the Lands, Rents, and Services belonging to it, and the Stock upon the Land, and contrived his Maner Houſe into an Habitation for Monks, to eaſe and relieve the Abby of *Croyland*, that was then too full and over-burthened with them, and carried with him ſix Monks from *Croyland* and placed them there; who there continued with a Prior until Ivo (6.) Talbois Earl of *Anjou* and Lord C of *Holland* that came over with the Conqueror, turned out the Prior and Monks, and Diſſeiſed the Abbat and Convent of *Croyland* of their Cell, killed and maimed their Cattel, Sheep and Oxen, beat, wounded, and ſometimes killed their Servants till they left it, and ſent to *Natalis* Abbat of St. *Nicholas* in *Anjou*, deſiring him to ſend him five Monks and a Prior, and he would provide a Cell for them, with ſufficient Maintenance; *Veniunt* (ſaith *Ingulph*) *Andegavenſes Monachi, & Cellam noſtram occupant, alienique coram nobis terras noſtras Devorant. Et Domino Wulketulo Abbate, ſuper hoc in* Curia D Regis *Calumniam movente, omnes* Normanni *mutuo* Confederati, *prædas & preſſuras, cædes & cæteras injurias univerſas* Ivonis Talbois *contra Croylandenſes juſtificant.* The Monks of *Anjou* came, and uſurped the Cell of *Croyland*, and Strangers devoured their Lands before their Faces; Of this *Wulketule* the Abbat complained, and put in his Claim for the Cell in the Kings Court, all the *Normans* confederated together, and juſtified the Rapine, Slaughters, E and other Injuries of *Ivo Talbois* againſt thoſe of *Croyland*, and afterwards King *William* (7.) confirmed Ivo his ſettlement upon the *Anjou* Monks. What can it be preſumed, that the *Croyland* Abbat and Monks had done againſt *William*, to have the Cell taken from them? Nay, What had the ſix Monks of *Spalding* done, to be turned out of it? *Ivo* had ſome ſort of Title to this Maner by his Wife *Lucia*, (of whom more by and by) and perhaps he ſent for ſuch hungry Monks out of his own Country, as would be contented F with half, or a third, or fourth part of it, and kept the reſt to himſelf.

(5.) *Ingulph. Hiſtor. f.* 510. *b. n.* 10. 20.

The Caſe of the Priory of *Spalding*.

(6.) Ibid. *f.* 513. *a. n.* 40.

Ivo Talbois ſeiſeth it, turns out the *Engliſh*, and puts in Monks of *Anjou*.

The Abbat of *Croyland* claims the Priory in the Kings Court.

(7.) *Monaſt. Angl. Vol.* 1. *f.* 307. *col.* 1. *n.* 30.

Ivo Talbois is by the Conqueror confirmed in his Poſſeſſion.

The ſecond Inſtance is in *Aſa*, a *Saxon* or *Daniſh* Lady. *De* (8.) *omni Terra* Aſe *Teſtantur Quod Roberti Malet debet eſſe, eo quod ipſa habuit terram ſuam ſeparatam & liberam a Dominatu & poteſtate* Bernulfi *Mariti ſui, etiam cum ſimul eſſent, ita ut ipſe de ea, nec donatione,*

(8.) Domeſd. *f.* 373. *a. col.* 1, 2. *Tit. Clamores in Eurwicſcire.*

Asa, a Woman had all her Lands seised, though it doth not appear she had done any thing against the Conqueror.

nec venditione, facere nec forisfacere posset; post eorum vero separationem, ipsa cum omnis terra sua recessit, & eam ut domina possedit: **Homines** *autem de* **Comitatu**, *tam de illa, quam de Tota terra ejus,* **Willielmum Valet** *saisitum viderunt, donec invasum est castellum. Hoc attestentur, de omni terra* **Ase** *quam habuit in* **Eurwicscire.** Concerning all the Land of *Asa* the Men of the County do Witness, that it ought to be *Robert Mallets*, because she held it separate and free from the power of her Husband *Bernulph*, yea, when they were together, so that he could neither dispose of, or forfeit it, but after their parting or separation she went off with all her Land, and possessed it. But the Men of the County, save *William Mallet*, seized of her, and all her Land before the Invasion of the Castle, (that is, the Castle of *York*) this they witness concerning all the Land of *Asa*, which she had in *Yorkshire*. *Mallet* was Governor of *York*, and *Vicecomes* of *Yorkshire*, (9.) and when the *Danes* took *York* and the Castle, he, his Wife, and two Children, and few others had their Lives saved with great difficulty. What had this Woman done, to be made Prisoner, and have her Land seized? she fought not against the Conqueror, but in all probability behaved her self peaceably. What did far the greatest part of all the remote Counties in *England*? they neither fought, nor advised against *William*, yet had their Lands taken away.

(9.) *Sim. Dunelm. col.* 198. *n.* 60. A. D. 1069.

A B

(1.) *Arg. Antinorm. p.* 63.

(2.) *Pag.* 27.

Next he goes on to the saying of Judge (1.) *Shardelow*, *Le Conqueror ne vient pas, &c.* The Conqueror came not to oust those who had a Right Possession, but to dispossess those, who wrongfully had enjoyed any Land to the disherison of the Crown. This we have heard of before, in Mr. *Petit's* Preface (2.) to the *Ancient Rights, &c.* and if the Reader thinks there is any weight in that wonderful saying, he may receive satisfaction in the Answer to that Book, *f.* 13. A.

C

(3.) *Arg. Antinorm. p.* 64.
(4.) *Placit. Coram. Rege Hill.* 14 *Ric.* 2. *Rot.* 50. *Warw.*

The Suit between the King and the Prior of *Coventry*.

(5.) In his Additions, *p.* 15.

After this he brings a (3.) Record of a memorable Suit between the King and the Prior of *Coventry* in the Fourteenth of (4.) *Rich.* 2. the King demanding a yearly Pension for one of his Clerks, as holding of him by Barony; The Prior denies he held any thing of the King by Barony, and pleads he held the Priory upon the foundation of *Leofric*, some time Earl of *Chester*, founded in the time of Saint *Edward* King of *England*, recites the Charter, and then proceeds in his Plea upon a Title of Descent. The Author of *Jus Anglorum ab antiquo* (5.) urgeth the same Record, and demands a Categorical Answer to it. They both, or one of them, had it out of the Monasticon, *Vol.* 1. *f.* 305. *col.* 1. *n.* 20.

D E

(6.) *Jus Angl. ab antiq. p.* 15. in his Additions.

In placito (6.) *inter* **Regem** *&* **Priorem** *de* **Coventre** *de annua pensione uni clericorum Regis, ratione novæ Creationis ejusdem* **Prioris** *quousque, &c. Prior venit & defendit vim & injuriam & quicquid est in contemptu Domini Regis, &c. non cognovit Ecclesiam suam beatæ* **Marie** *de* **Coventre** *fore Ecclesiam Cathedralem, nec ipsum* **Priorem** *tenere aliquid de Domino Rege per Baroniam prout pro Domino Rege in narratione sua proponitur, & dicit quod tenet* **Prioratum** *prædictum ex fundatione cujusdam* **Leofrici** *quondam* **Comitis** *Cestriæ, qui* **Prioratum** *prædictum fundavit Tempore Sancti Edwardi dudum Regis Angliæ per cartam in hæc verba.*

F

Anno

Anno Dominicæ incarnationis 1043. *ego Leofricus Comes Ceſtriæ, &c.* and then ſets forth the Foundation, and that he gave unto it in ſeveral Counties, twenty four Towns, *&c.* there named, and then ſays *cum hiis omnibus Rex Edwardus & ego libertates huic Monaſterio dedimus; ita ut Abbas ejuſdem loci, Regi Angliæ ſit ſubjectus*; and ſo proceeds to the ſecond part of his Plea and Title by Deſcent. — The Priors Plea.

A (7.) *Ibidem recitatur Charta ejuſdem regis Edwardi, quas Donationes & Conceſſiones diverſi alii Reges confirmaverunt, & dicit quod poſtea per proceſſum temporis nomen* Abbatie *prædictæ, divertebatur in nomen* Prioratus, *eo quod Leofricus ad tunc Abbas ibidem creatus fuit in Epiſcopum Ceſtriæ, & ordinavit per aſſenſum Monachorum ibidem quod Abbatia prædicta, ex tunc foret Prioratus, & quod ſuperiores ejuſdem Eccleſiæ, forent priores ſucceſſive in perpetuum, & dicit quod de ipſo Leofrico, quia obiit ſine Hærede, de corpore ſuo deſcendente, Advocatio* B *Eccleſiæ Prædictæ, tempore Willielmi Conqueſtoris Angliæ, cuidam Hugoni Comiti Ceſtriæ ut Conſanguineo & hæredi ipſius Leofrici, viz. filio Erminilde ſororis ejuſdem Leofrici, & de ipſo Hugone, cuidam Ricardo, ut filio & hæredi, & de ipſo Richardo cuidam Ranulpho ut conſanguineo & hæredi, viz. filio Matildis ſororis prædicti Hugonis, & de ipſo Ranulpho, cuidam Ranulpho, ut filio & hæredi, &c.* The (8.) Prior further pleads, that the Advowſon of the Priory went along with the Deſcendents, until at length it was given, and came into the C hands of King *Henry* the Son of King *John*, and his Heirs for ever, *&c. Prædictus* Prior *ſine die.* — (7.) Ibid. p. 16. *Arg. Antinorm.* p. 65. (8.) Ibid. p. 17. and p. 66.

From this great Record (as he calls it) our Argumentator ſays it is clear and evident. — (9.) *Arg. Annorm.* p. 67.

Firſt, That *Leofric* was Earl of * *Cheſter* in the Reign of King *Edward* the Confeſſor, and that he dying without Iſſue, the Earl- D dom of *Cheſter* and Right of Advowſon of the Priory of *Coventry* in the time of *William* the Conqueror, deſcended to *Hugh* Earl of *Cheſter*, as his Couſin, and Heir to *Leofric*, as being the Son of *Erminild* Siſter of *Leofric*; and that from *Hugh* deſcended *Richard* his Son and Heir, and from *Richard* deſcended *Ranulf* as Couſin and Heir, that is the Son of *Maud* Siſter of *Hugh*, and from that *Ranulph* another *Ranulph* his Son and Heir. — From the Priors Plea he obſerves (as he ſays) three evident things.

E Secondly, That (1.) if *William* when he came in, made an abſolute Conqueſt, this Title had been impoſſible to have been maintained. — (1.) Ibidem.

Thirdly, (2.) That the Plea of the Prior was allowed; for the Record ſaith, *Prædictus Prior ſine die*, and the Advowſon aforeſaid did deſcend. And here he adds, That 'tis obſervable, that Judgment being given upon ſolemn Debate and Trial, neither the Judges F nor Kings Council, ſo many hundred years ago, as in the Age of *Richard* the Second, knew any thing of this new received Notion of a new Conqueſt. — (1.) Ibid. p. 6.

* He was Earl of *Mercia*, but was called ſometimes Earl of *Cheſter*, ſometimes Earl of *Leiceſter*, becauſe of his often Reſidence at thoſe Places.

This

Both parts of the Priors Plea false.

This Plea consists of two parts; First, That the Prior of *Coventry* held nothing by Barony; Secondly, A Title of Right of Advowson of the Priory by descent. And I do affirm they were both false.

The Prior of *Coventry* was a Baron. (3.) *Cl. 11 Ric. 2. m. 13. Dors.* (4.) *Seld. Tit. Hon. f. 60.* (5.) Ibidem, *f. 604, 605, 606. 607.*

First, The Prior of *Coventry* as Prior was a Baron, and summoned to Parliament as such, *Selden Titles of Hon. f. 602.* in (3.) the Eleventh of *Richard* the Second, but three years before this Suit, and so continued until the time of the Dissolutions of Monasteries, and no Abbats or Priors after that time came to Parliament, (4.) but such as held by Barony; and from this Attendance he might have been excused, (5.) if he had pleaded in Parliament, and could have made it appear he held not by Barony, as some others did, that thought it a burthen to them and their Houses. A

* *Monast. Angl. vol. 1. f. 304. col. 1. n. 10.*

The twenty four Maners or Towns, and * one half of the Town of *Coventry*, given by *Leofric* to this Priory, were undoubtedly a Barons Estate, and therefore this as well as all Bishopricks, and other Abbies and Priories, was most certainly put under the Tenure of Baronage by the Conqueror; and it appears upon Record, (6.) that in the Thirteenth of *Henry* the Third the Prior Compounded with, or Fined to him, for the Service of ten Knights Fees at 40 *s.* every Fee in the Counties of *Warwick* and *Leicester* only, whereas some of the Maners or Towns *Leofric* (7.) gave to it, were in *Glouncestershire* and *Worcestershire*, in *Hampshire* and *Cheshire*; which notwithstanding in the Seventeenth of *Edward* the Third, the (8.) Prior of *Coventry* put in such a false Plea as this, That he and his Predecessors held all their Lands and Tenements, by the Service of two Knights Fees only, and that the King nor his Progenitors were ever seised of more, or other Services by the Prior or his Predecessors, by Fine, or Service by the Body of Men. B C

(6.) *Rot. Cl. 13. Hen. 3. m. 3.*

(7.) *Monast. Angl. vol. 1. f. 305. col. 1. n. 50.*

(8.) *Petyt's* Ancient Rights, *&c. p. 78. in Append.*

Leofric had Issue, his Son and Heir Earl *Algar*. (9.) *Dugd. Baron. Tit.* Earl of *Mercia* before the Conquest, and he had Issue, Earl *Edwin* and Earl *Morchar*.

Secondly, I affirm the Title by Descent to be utterly false, for this very Earl *Leofric*, the Founder of this Priory, had Issue, *Algar* Earl of *East-Angles* first, then after his Fathers death Earl of (9.) *Mercia*, and *Algar* had two Sons, (9.) *Edwin* Earl of *Mercia* after his death, and *Morchar* Earl of *Northumberland*, both living, and had their Estates and Lands taken from them after the Conquest, and a Daughter named *Lucia* Married to *Ivo Talboys*, with whom King *William* gave him all her Brothers Lands in *Holland* in *Lincolnshire*. D

Anno Domini 1053. *Godwinus comes buccella gustata suffocatus interiit, Comitatus West-Saxoniæ Haroldo filio suo datus est, & Comitatus Haraldi (id est) East-Saxoniæ* **Algaro** (1.) *filio* **Leofrici** *Leicestrensis Comitis est donatus.* E

(1.) *Ingulph.* Histor. *Croyland, f. 510. b. n. 40.*

Anno Domini 1057. *Illustrissimus & optimus* (2.) *Comes Leicestriæ* **Leofricus** *obiit, & apud* **Coventeriam** *Monasterium suum, Quod Construxerat, & maximis donariis, & privilegiis plurimum ditaverat, sepultus requiescit.* F

(2.) Ibidem, *n. 50.*

(3.) Ibid. *f. 511. a. n. 10, 20.* *Ingulph* was installed Abbat of *Croyland*, Anno Dom. 1076.

Anno Domini 1059. *Strenuissimus Comes* (3.) **Algarus**, *invictus, & populo terræ, sincerissimo affectu amatus obiit, &* **Coventerie** *juxa* **patrem** *positus requiescit inhumatus.* **Relictis Tribus liberis**, *duobus filiis videlicet,* **Edwino & Morcharo**, *& unica filia quæ nunc superest, Comitissa* **Lucia**. *Ivoni*

Ivoni Talbois post necem duorum fratrum & Comitum, Edw:nt, & Wazarii (4.) Luciam *eorum sororem cum omnibus terris & tenementis* (which they had left) *ad eosdem pertinentibus, inclytus* Rex Willielmus *dederat in uxorem, quæ in* Poplandia *potissime jacebant, &c.*

(4.) Ibidem, f. 513. a. lin. 2.

A So much for *Leofric* and his Issue, now let us see what and who *Hugh* Earl of *Chester* was, that is said in this Plea to have been Cousin by Blood, and Heir to this Earl *Leofric*, which is as false as that he died without Issue.

Hugh Earl of *Chester* was not Cousin by Blood, or Heir to *Leofric.*

The first Earl of *Chester* after the Conquest was (5.) *Gherbod* a *Fleming*, who being sent for into *Flanders*, and having obtained leave of the King to go thither, he there fell into his Enemies hands, and was kept there, by a long and hard Imprisonment.

(5.) *Ordel. Vital. f.* 522. A. *Gherbode a Fleming* first Earl of *Chester* after the Conquest.

B In whose absence King *William* gave this Earldom to (6.) *Hugh de Abrincis*, a Person of great note amongst the *Normans*, an expert Soldier, and his Sisters (7.) Son; his Father was (8.) *Richard de Abrincis*, Sirnamed *Goz*, and he was Son to (9.) *Tursten* surnamed *Goz*, who (9.) was Son to *Ansfrid* the *Dane.*

(6.) *Ibidem.* The Genealogy of the Earl of *Chester.*
(7.) *Hen. de Knighton, col.* 2376. *n.* 60.
(8.) *Order. vit. ut supra.*
(9.) *Gemet. lib.* 7. *c.* 6.

C This Earl Hugh Married (1.) Ermentrude Daughter to *Hugh* Earl of *Clermont* in *Beauvois* in *France*, and by her had *Richard* Earl of *Chester*, who was (2.) drowned, having (3.) no Children, with *William* Son to King *Henry* the First, in a Shipwrack coming out of *Normandy.*

(1.) (2.) (3.) *Order. vital. f.* 522. B. *Gemet. lib.* 8. *c.* 38.

To this *Richard* succeeded *Ranulph de Bricasard Vicecomes Baiocensis*, Viscount of *Bayeux* in *Normandy*, his Cousin German, and Heir, by *Maud* his Fathers Sister: and to him succeeded *Ranulph* his Son, called *de Gernons*, &c.

(4.) *Order. vit. f.* 851. A. 871. A. *Gemet. ut supra.*

D Having considered the Title of Descent in this great Record, his first (5.) clear and evident Deduction from it, That *Leofric* died without Issue, and that *Hugh* Earl of *Chester* was his Cousin and next Heir, as being the Son of *Ermenild* the Sister of *Leofric*, appears to be false.

(5.) *Arg. Antinorm. p.* 67.

E Secondly, It appears that the Title of the Advowson of the Priory, could not have been maintained by this Descent, if it had ever been well examined and throughly debated.

Thirdly, If upon solemn Debate and Trial Judgment was given for the Prior, (as by the words *prædictus Prior sine die*, it appears it was) 'tis certain the Judges and Kings Council understood and knew as little of this Descent and Tenure by Barony, as they did of F the absolute Conquest.

Further, Our Author gives (6.) some few Instances of the very many he could (as he says) out of *Domesday* Book, to satisfie his Reader, that there were many Proprietors of *English-men*, who had their Free-hold Estates upon Titles Paramount to any of the Conquerors Donation; and these he takes (as he says) from the industrious

(6.) *Arg. Antinorm. p.* 69.

strious and worthy Gentleman Mr. *Atwood* in his Book Entituled *Jus Anglorum ab antiquo*, where in his * excellent History of the Conquest amongst others, he hath these following.

* *Ibid.* ' is exactly like his own.

(7) *Surrey.*

(7.) *Arg. Antinorm.* p. 69. *Jus Anglor.* p. 80.

Hugo de Port (7) was a very great Proprietor, as may be found under the Title, *Terra Hugonis de Port.* Many Maners he had: and as appears in *Hampshire* he had at least two Maners, *Cerdeford* and *Eschetune*, from his Ancestors, before *Williams* entrance. A

The disingenuous and false practices of this Writer, and his Worthy Friend.

These Gentlemen never cite any thing particularly or exactly out of *Domesday*, so as it is a great trouble to trace them: *Hugo de Port* had no Title or Land in *Surrey*, as is evident from *Domesday* Book in that County, but the Title he mentions is to be found in *Hampshire*, where he held much Land of the King, and many Maners, amongst the rest these two above mentioned, which are there entred as here it followeth. B

(8.) Domesd. *f.* 44. *b. col.* 2.

(8.) *Hantescire.*

Terra Hugonis de Porth, in Fordingbridge Hund.

☞.

Hugo de Port tenet **Cerdeford.** *Willielmus de eo,* **duo lib. hom.** *in Alodium Tenuerunt pro duobus Man. de R. E. Tunc & nunc geld. pro* 5 *Hid. Terra est* 4 *Caru. in Dominio sunt* 2 *Caru. &* 20 *Bord. &* 4 *Servi cum* 1 *Caru. & quater* 20 *acr. prati &* 11 *T. R. E. & nunc val.* 4 *lib. cum Recep. C. sol.* C

(9.) See *Glossary.*
* That is *Cerdeford* and *Eschetune.*

Hugo de Port holds *Cerdeford*, *William* holds it of him, two Freemen held it in (9.) *Alodium* for * two Maners of King *Edward*, then and now it was and is taxed for five Hides, the Lands contain four Carucates, there are two in Demeasns, and twenty Bordars, and four Servants, with one Carucate, and fourscore and eleven Acres of Meadow in the time of King *Edward*, and now it is worth Four Pounds, when *Hugo* received it, it was worth an Hundred Shillings. Here is no Title paramont to the Conquerors Donation, for *Hugh de Port* held it not before that time, but two Freemen held it of King *Edward.* D

The false inference of the Author of *Jus Anglorum ab antiquo.*

E

(1.) Domesd. *f.* 48 *a. col.* 1.

(1.) *Hantescire.*

Terra Gilberti de Breteville.

* *Jus Angl. ab antiquo*, p. 96. ☞.

Gilbertus de Breteville **Ten. de Rege** *unam Hidam in Sumburn Hund. Hanc* **Alnodus Tenuit** *de R. E. &c.* * *Hanc Hidam* **Calumniatur** *Hugo de Port dicens eam pertinere ad sua Maneria* **Cerdeford** *&* **Eschetune**, *& ibi eam tenuerunt sui* **antecessores**, *& Hoc Testatur Totum Hund.* F

Gilbert de Berteville holds of the King one Hide in *Sumburn* Hundred, *Arnold* held this Hide of King *Edward, &c. Hugh de Port* claims this Hide, and says it belongs to his Maners of *Cerdeford* and *Eschetune*, and that his Antecessors held it there; This the whole Hundred doth Testifie.

Our

Our Author and his industrious and worthy Gentleman lay hold of the word Antecessors or Ancestors only, and impose upon their Readers in the meaning of it, and using it as if they were Ancestors in Blood, and such as *Hugh de Port* was Heir unto; but such they were not, for we see in the first entry of *Cerdeford*, that *Hugh de Port* held it after the Conquest, and two Freemen before the Conquest of King *Edward* for two Maners, so that Ancestors here were only Antecessors, or Predecessors in Possession, and such as held the Maners before *Hugh* had them, and not Ancestors in Blood, from whom they descended to *Hugh*. See more in the *Glossary* upon the word, for the confirmation of this.

Antecessors in *Domesday* are only Predecessors in Possession, not Kindred or Ancestors in Blood.

His second Instance, (2.) the words these. The Earl of *Moreton* a very powerful Prince, as I may call him, held *Estreham* in *Tenrige* Hundred in the time of King *Edward*, he enjoyed several other great Possessions of the gift of *William*. I doubt not indeed but he was a *Norman* born, yet he was here before the entrance of the *Normans*, and might, not improbably be in favour with King *Edward* the Confessor, who was all *Frenchified*; he to be sure had some Lands in *England*, which he enjoyed not from *Williams* Division: Fine Shuffle! he was half Brother to the Conqueror, and had in *England* of his Donation * Seven hundred ninety three Maners, whereof this was one, he was Earl of *Moreton* in *Normandy*, and *Cornwall* in *England*. The true Entry of this Town or Maner in (3.) *Domesday* Book is as followeth.

(2.) *Antinorm.* p. 70. *Jus Anglor.* p. 81. In the Margin of this Book, thus, *Ipse Comes Tenuit Estreham, T. R. E.*

* *Domesd.* in several Counties.

(3.) *Fol.* 34. *a. col.* 2.

(3.) *Sudrie.*

Terra Comitis Moreton.

Ipse Comes ten. **Estreham** *T. R. E. se defend. pro* 5 *hid. nunc pro Nicholo, Herald. tenuit* 1 *hid. & dim. Canonici de Waltham* 1 *hid. & dim. tres sochi tenuer.* 11 *hid. & quo voluerunt cum eis ire potuer. Tract. est* 11 *Car. ibi sunt tres villi &* 3 *Bordar. cum* 2 *Car. & dim. T. R. E. val.* 30 *sol. & post* 15 *nunc* 43 *sol.*

Surrey.

The Land of the Earl of *Moreton.*

The Earl held *Estreham* in the time of King *Edward*, it was Taxed at the rate of five Hides, now nothing; *Herald* held one Hide and an half, the Canons of *Waltham* one Hide and an half, three *Sochmen* held two Hides, and might go with them whither they would, (that is, where ever they were themselves, they might dispose of their Lands) the Land is two Carucates, there are three Villanes, and three Bordars, with two Carucates and an half; in the time of King *Edward* it was worth Thirty Shillings, afterwards Fifteen, now Forty three Shillings.

Ipse Comes **Ten.** *Estreham*, **Ten.** is here put for *Tenet*, not *Tenuit* as in their Margins, for *Herald Tenuit*, the Canons of *Waltham* and three *Sochmen Tenuerunt*, and therefore the Earl according to the Title, that they were his Lands, was the present Possessor of *Estreham*;

ham; which was before the Conqueſt poſſeſſed by *Herald*, the Cannons of *Waltham* Abby, whereof he was Founder, and three *Sochmen*: and further they joyn the three Letters *T. R. E.* to the firſt Sentence, which belong to the ſecond, as is clear by the word *modo*, that is a Relative to them. Here cannot be the leaſt colour of any Title paramont to the Donation of the Conqueror.

Tempore, Regis, Edwardi.

(4.) *Antinorm.* p. 71. *Fus Angl.* p. 83.

The Third Inſtance is in theſe (4.) words. A

Hampſhire.

Ralph Mortimer held ſeveral Poſſeſſions, ſome of which he had, **Jure hereditario**, from before the Reputed Conqueſt, **Ipſe Radulphus tenet Ordie.** This Maner *T. R. E. Extra Eccleſiam emptum fuit, eo pacto, & Conventione, ut poſt tertium hæredem, cum omni* **pecunia**, *Manerium Eccleſia Sancti Petri recuperet, nunc qui tenet Radulphus eſt tertius hæres.* B

(5.) *Fol.* 46. *b. Col.* 2.

The true Entry of this Maner in *Domeſday* (5.) Book is as followeth.

(5.) *Hanteſcire.*

Terra Radulfi de Mortemer. C

Radulphus de Mortemer ten. Ordie. **Cheping tenuit de Rege** *E. Tunc & modo ſe defend. pro una hida Terra eſt* 5 *Car. In Dominio ſunt* 3 *Car. & unus villanus, &* 27 *Bord. cum* 2 *Car. ibi Eccleſia &* 24 *Servi &* 3 *Molini de* 60 *ſolid. &* 5 *acr. prati pro herbagio* 40 *ſol. &* 8 *Hage in Wincheſtre de* 65 *ſol. &* 4 *Den. T. R. E. valab.* 25 *lib. & poſt* 10 *lib. modo* 15 *lib.*

Hoc Manerium T. R. E. extra Eccleſiam emptum fuit **eo pacto & Conventione** *ut poſt tertium* **heredem** *cum omni pecunia, M. Eccleſia Sancti Petri de Epiſcopatu reciperet, Nunc qui tenet Radulfus eſt tertius hæres.* D

Hampſhire.

The Land of *Ralph de Mortemer.*

Ralph de Mortemer holds *Ordie.* *Cheping* held it of King *Edward*, then and now it was Rated or Taxed at one Hide, the Land is five Carucates, in Demeaſn there are three Carucates, and one Villan, and ſeven and twenty Bordars, with two Carucates; there is a Church, and twenty four Servants, and three Mills, of Sixty Shillings, and five Acres of Meadow; For *Herbage* Forty Shillings, and eight Houſes in *Wincheſter* of Sixty five Shillings and four Pence. In the time of King *Edward* it was worth Twenty five Pounds, afterward Ten Pounds, now Fifteen Pounds. E F

Theſe Houſes belonged to this Maner.

This Maner in the time of King *Edward* was bought from the Church, on Condition, that after the third Heir, the Church of St. *Peter* ſhould receive the Maner from the Biſhoprick with all the Stock; **Ralph** that now holds it, is the third Heir.

This

This Maner in all probability King *Edward* had sold out for three Lives, and then gave it to the Bishoprick of *Winchester*, to hold for that term, and after the expiration of those Lives, to his Church of St. *Peter* at *Westminster*. But whether it was so or not; by the word Heir here is only meant and intended a Successor, not an Heir by Blood or Affinity, and by those words **Ralph which now holds it**, is the third Heir, can only be so understood as his was the third Life, or that he was the third Successor.

A

For **Cheping** the *Saxon* held it before the **Conquest** of King *Edward*, and **Mortemer** the **Norman** held it after the Conquest. This **Cheping** held several Lands of the King and Bishop of *Winchester* in this County; Of King *Edward* he held **Bertune, Ordie, Sirelei, Botelie, Chenol, Stradselle, Bedestei**, and **Candowre**; He held in **Swantune** one Hide of the Bishop and Monks of *Winchester*, which was granted him for his Life only, and then to return to the Church; He also held **Otreburne** of the Bishoprick of *Winchester*, *Non potuit recedere ab Ecclesia*; He held of Earl **Herald Silcestre** in *Alodium*. All these Towns, Maners, or Lands, are found to be under the Title of **Terra Radulfi** *de* **Mortemer** in *Hampshire*, and likewise the Lands of several other Men before the Conquest. **Ezi** *tenuit, T. R. E.* another *Ordie, Elwinus Tenuit in Alodium de Rege E. 2. hidas in Nortune. Edric tenuit Anne T. R. E.* These are all under the same Title, and were **Mortemers** Lands after the Conquest; from whence it is more than evident, that he was only **Successor**, which is expressed here by the word **Heir**, and that he held his Lands by the **Donation** of the Conqueror, and no otherwise.

B

C

The (6.) words of his Fourth Instance are these. (6.) *Antinorm.* p. 71. *Jus Angl.* p 86.

D

Dorsetshire.

(7.) *Terra* **Tainorum** *Regis, in Jus Angl. &c.* (7.) Domesd. *f.* 84. *a. col* 1.

Ten Thains hold *Chimedecome ipsi Tenuerunt T. R. E. pro* 1 *Manerio.*

E

These Thains were the Kings Ordinary Ministers or Servants, which he employed in his Country Affairs and Business, in managing and looking after his Maners and Lands, his Forests, his Fishings, *&c.* his Deer, his Beeves, his Dayries, Cows, Horses, Sheep, Hogs, Corn in the Granaries, *&c.* some others were employed in Hunting, Hawking, *&c.* some were Bowyers, Carpenters, and other Mechanicks and Artificers; and many were small Officers in the Court, those especially that had Lands given them, which they nor their **Fathers** held in the time of *Edward* the Confessor, others in Cities and great Towns. Now it was most necessary for him to employ the *Saxons* in these Services, for the *Normans* knew not the Country, nor understood the Lands, and could not perform the most of them; And it was then the common practice of this and other Nations, instead of Sallaries or Wages, not only for Princes, but also other great Men, and Gentlemen of Estates, to assign Lands to their Servants, and they made the best of them, by letting them out to

F

Drudging People, either for Mony, or ſome part of the Product of them, there being then but little Mony, and Trade not much regarded, Land was the only thing that made all Payments, and gave Credit.

The Crown Lands without doubt he received with the Stock upon them, and his Court (as the uſe was then) was to be ſupplied with Veniſon, Wild Boars, Hogs, and ſuch other Proviſions as the Woods and Foreſts afforded, in their Seaſons, *&c.* and therefore could not find out more proper Servants, nor more fit for his Buſineſs, than ſuch as had been employed by King *Edward*; and though the ſame Perſons did hold the ſame Lands in the Conquerors time, that they did in his, yet that the Tenure was the ſame, and as eaſie as in King *Edwards* days, no Man, I think, that hath once read this Anſwer, will readily believe it. 'Tis moſt certain they had a new Landlord, that they were his Servants and Miniſters, that he gave them their Employments, and alſo the Lands they poſſeſſed in conſideration of them; ſo that it were not poſſible for theſe ſort of Men to have a Title paramount to the Donation of the Conqueror, and we may reaſonably conceive that their Tenures under him were much more rigid and hard, than they were under King *Edward*, and that though they were ſo, yet they thought it at that time, a very great favour and happineſs to them, that they were continued in their Places. That the **Thanes**, the **Taini & Servientes Regis**, contained under the Titles of **Terra Tainorum**, or **Servientium Regis**, in almoſt every County in **Domeſday Book**, were the Kings **Miniſterial Officers**, and **Servants** of leſs Note in Court, Cities, great Towns, and the Country, let our Author ſee his (8.) great and ever famous Mr. *Selden*, for whoſe Memory he hath the higheſt Regards, in his Notes upon *Eadmer*, *fol.* 170. *n.* 20, 30, 40, 50. and here in *Appendice*, *N.* 10.

(8.) *Antinorm.* p. 37.

His Fifth (9.) Inſtance is of two Kings Thains in *Staffordſhire*, but as in *Dorſetſhire* above, ſo here he hath concealed the Title, under which they were contained, though his Induſtrious Friend (by what chance I know not) did not in theſe two Counties.

(9.) *Ibidem*, p. 71.

Alric holds *Stagriſgeſhowe* } *Ipſi has terras tenuerunt, T. R. E.* Four-
Aſwold holds *Chocheſdene* } teen more hold Titles Prior to King *Williams.*

True Entry in (1.) *Domeſday-Book.*

(1.) *Fol.* 250. *b. Col.* 2.

Statfordſcyre.

Tit. XVII. *Terra* **Chenwin**, *& aliorum* **Tainorum** *Regis.*

Chenwin tenet **de Rege** *tres hidas in Codeſhall. ipſe ten. T. R. E. &c.*

Alric Ten. **Stagriſgeſhowe**, *&c.* } *Ipſi has terras tenuerunt, T. R. E.*
Aſwoldus Ten. **Chrocheldene**, *&c.* } The Fourteen others that held Lands (of ſo many) of Titles Prior (as he ſays) to King *Williams*, are theſe under this Title, and were the Kings Servants, as before, in *Dorſetſhire*, and therefore they had no Title paramount to the Conquerors Donation.

His

His Sixth and last (2.) Instance is of one *Vctred*, who held several Lands in the time of King *Edward*, as in the time of King *William* the First. Besides several Dispossessed, who have their Titles allowed: they have both been so disingenuous, as in this Instance, to conceal the Title of the Kings Servants in *Yorkshire* where this * *Vctred* is to be found. This *Vctred* was one of the (3.) Kings Thanes or Servants in *Yorkshire*, and what Lands he held under that Title, were such and in the same state other Thanes held them in other Counties, and therefore he could have no Title Prior to that of King *Williams*. Such (as he says) were dispossessed, are under the Title of (4.) *Clamores in Ewerwicscire*, and the Controversie was between *Norman* and *Norman*, upon King *Williams* Donation, whether they had their Possessions or Estates accordingly, not one syllable of any Claim of an *English-Saxon*, allowance of their Titles, or Restitution of their Estates, as these Gentlemen designed to impose, under general words, the belief of it, upon their Readers.

(2.) *Antinorm.* p. 62. *Jus Angl.* p. 90.

* See *ibidem*, p. 90. where *Vctred* and this Entry is to be found, amongst others which were, though not there named the Kings Servants.

(3.) *Terra Tainor. Regis in Everwicscire, Tit.* 29.

(4.) Domesd. *f.* 373. *a col.* 1.

(5.) *Arg. Antinorm.* p. 72.

He concludes (5.) that these six Instances are enough (referring the more Curious to Mr. *Atwoods* Book, or to the great Survey it self) to bear out his Assertion, that the *English* had Estates and Fortunes still in their hands, which they held in King *Edwards* time, and did not derive under King *Williams* Title. Why were they then entred in *Domesday*, as holding of him? Or such other Persons as did hold immediately of him?

But your Industrious Worthy Gentleman must not go off thus; Besides these Instances you have thought fit to make use of, he hath very many others, which ought not to pass without Examination, lest it be said afterwards, that you were an Injudicious Person, and knew not how to make choice of such as were most apposite to prove the point.

He begins with (5.) *Surrey*, and says *Oswald* holds *Michelham*: *Idem Tenuit, T. R. E.* and no more.

(5.) *Jus Angl.* p. 81.

In (6.) *Domesday-Book* thus.

(6.) *Fol.* 35. *a col.* 1.

Terra Ricardi filii Gilberti Comitis.

Oswaldus **tenet de Ricardo** *Michelham, isdem tenuit de Rege E. &c.* Here we see the Interest of King *Edward* in this Mans Land, (that is) the Fee or Dominion of it was given to *Richard* of *Tonebridge* Son of *Gilbert*, Earl of *Brion* in *Normandy*, one of King *Williams* considerable Assistants in the Conquest; and I leave it to the Reader to judge whether he thinks *Oswald* did not make a Composition and Terms with *Richard* to have his Estate again, or held it not of him by a new and more severe Tenure than he did before, or it may be both.

Then he says (7.) *Seman* holds in *Mideham*, and no more in the *Survey*, **Tenuit** *de Rege Edwardo*, **nunc tenet** *de Willielmo* **Rege.** And this is certainly a new Title.

(7.) *Ibidem, Jus Anglor.*

Then

Then he comes to the Kings **Thains**, but hath **concealed** the Title, and says only, **William** the Hunter holds *Littleton*, **Oswald** holds *Pechingford*, **Seman** holds one Rood in *Copedorn*, **Oswald** holds *Fecham*, *Theoderick* the Goldsmith holds *Clevintune*, **Chetel** the Hunter holds *Lodeford*.

(8.) *Fol. 36. b. Col. 2.*

In (8.) *Domesday-Book* they are thus entred in order, he hath transposed them. A

Sudrie.

(9.) *Ibidem. Tit. 36.*

(9.) *Oswaldus, Teodoricus, & alii* **Servientes** *Regis.*

Oswaldus **tenet de Rege** *Pechingeorde, ipse* **tenuit** *de Rege, E. &c.*

In Copendone Hund. **ten. Seman,** *unam virgatam terræ* (which was the fourth part of an Hide, not a Rood, the fourth part of an Acre) *quam* **tenuit** *de Rege E. sed ex quo venit Willielmus Rex in Angliam* * **Servivit** *Oswaldo, redd. ei 20 den. hic se potuit vertere quo voluit T. R. E. Ipse Oswaldus* **ten.** *Feceham ipse* **Tenuit** *T. R. E. &c.* **Teodricus** *aurifaber* **Tenet** *de Rege Chenintune ipse* **Tenuit** *de Rege E. &c.* **Chetel** *venator tenet Lodeford,* **Pater** *ejus tenuit de Rege, E. &c.* **Willielmus venator** *tenet de Rege Liteltone, ipse* **tenuit de Rege,** *E. &c.* These had been King *Edwards* Servants, and they were **continued** in their **Employments** and **Salaries** by King *William*, which were in Lands holden of him, and therefore had a new Title from a new Landlord, and as may be reasonably presumed, upon worse terms than under King *Edward*. B C

* Observe his Industry in concealing this Entry, *&c.*

Hamshire.

(1.) *Jus Anglor. p. 82.*

Terra (1.) **Tainorum** *Regis.* D

Alwi the Son of *Saul* holds *Tederly*, his Father held it in *Alodium* of King *Edward*, *Vluric* holds *Locherley*, four *Englishmen* hold *Wallop*, *Edmund* holds Lands of the King, *&c.* after the same manner to the number of thirty three of the Kings Tains and Servants in *Hamshire*, the Isle of *With*, or *Wight*, and about the New Forest.

In *Domesday-Book* thus. E

Hantescire.

(2.) *Fol. 50. a. Col. 1.*

Terra (2.) **Tainorum** *Regis.*

1. *Alwi filius Saulf* **ten. de Rege** *Tederleg. pater ejus* **Tenuit** *in Alodio de Rege E. &c.* but how he held it of the Conqueror it is not said there. F

2. *Vluric* **tenet** *Locherley* **de Rege** *pater ejus* **tenuit** *de Rege E. pro Manerio, &c.*

3. *Quatuor Angli* **tenent de Rege** *Wallope, pater eorum* **tenuit** *in Alodium de Rege E. &c.*

4. *Edmundus*

4. *Edmundus* **tenet de Rege** *Mulcheltone, pater ejus* **tenuit** *de Rege E. &c.*

And thus, after this manner are all his Citations in this County, and so in the New Forest.

In (3.) *Nova Foresta & circa eam.* (3.) *Ibid. fol. 51. b. col. 1.*

A

Terra **Tainorum** *Regis.*

1. *Femina Saulf* **tenet de Rege** *Hoburn, Saulf* **tenuit** *de Rege E. &c.*

2. *Ulgar* **habet** *de* **Rege** *unam virgatam Terræ in Melleford, ipse* **Tenuit** *de Rege E.* And so for others.

B

Terræ (4.) **Tainorum** *Regis in Insula de With.* (4.) *Ibid. fol. 53. b. col. 2.*

1. *Oriant* **ten.** *Celvecrote pater ejus Tenuit de Rege E. &c.*

2. *Alsi* **ten.** *de* **Rege** *Abaginge* **ipsemet tenuit** *de Rege E. in alodium, &c.*

C And so of others in this Island; And note, that all who held under the direct and immediate Title of the *Terra Regis*, or Kings Lands, or the Title of *Terra Tainorum Regis*, did hold of the King, whether it was expressed or not, the Title under which they held being a sufficient demonstration of that.

(5.) *Barkshire.* (5.) *Fus Anglor. p. 84.*

D

Terra Odonis & aliorum **Tainorum**, left out here.

1. *Walter* holds one Hide in *Ceneleberie*, which King *Edward* gave his Ancestors, in the Margin, *de firma sua solut. ab omni Consuetud. propter Forestam Custodiendam excepta forisfactura Regis, &c.* He was the Kings Forester.

2. *Edward* holds one Hide in *Coserige*, he held it in *Alodium* of

E King *Edward.*

3. *Alward* the Goldsmith holds *Sotesbroc.* In the **Margin**, *pater ejus tenuit de Regina Edw.* and so for others he mentions in this County.

In *Domesday* (6.) *Book* thus. (6.) *Fol. 61. b. col. 1.*

F

Berrocheſcire.

Terra **Walleri**, *f. Other.*

Walterius filius Otherii **tenet** *dimid. Hidam quam Rex Edwardus* **Dedit** *ejus* **Antecessori**, *de firma sua, & solutam ab omni Consuetudine, propter Forestam Custodiendam, excepta forisfactura Regis, sicut est,*

Latro-

Latrocinium, & Homicidium, & Hemfara, & fracta pax val. 5 *sol.* And then follows.

(7.) *Ibid. fol.* 63. *b.* 1. *col.*

Terra (7.) **Dvonis** *& aliorum* **Tainorum.**

1. *Edwardus* **Tenet de Rege** (left out in our Author) 1 *hidam in Coserige, ipse* **tenuit** *in Alodium de Rege E.* A

2. *Alwardus Aurifaber* **tenet de Rege** *Sotesbroc, pater ejus* **tenuit** *de Regina Edid, &c.* She was King *Edwards* Queen.

(8.) *Jus Angl.* p. 85, 86, 87, *&c.*

At this rate he rambles through (8.) fifteen Counties, and leaves out the Title of *Terra Tainorum*, or *Servientium Regis*, under which very near all the Persons he musters up did hold, in all of them, except three; And always says only such an one holds, and such an one holds, but not of the King, he never answers the meaning of *Domesday Book*, or the Conquerors Survey, which either by the Title, or expres words besides the Title, (such as) **tenet de Rege**, or **Tenet de Comite Rogero**, or *de* **Radulpho Mortimer**, *&c.* discovers whose the Lands, or at least, the Fee of the Lands was. B

(9.) *Ibidem*, p. 91, 92.

And having pleased his own Fancy, and cheated his Reason and Understanding, he says, in these (9.) fifteen Counties (of thirty described in *Domesday*) there were above one hundred and eighty Freeholders, who derived not under King *Williams* Title. C

Here I shall ask him (notwithstanding he hath industriously endeavoured to conceal it) whether very near all these Persons he hath mustred up in the several Counties were really King *Williams* Servants and Officers? Secondly, Whether he gave them their Employments, or which is all one continued them in them? Thirdly, Whether he gave or continued to them the Lands which they held for these Services and Employments? Fourthly, Whether by his great power he might not turn them out of their Employments and Estates, and put in others? If these Persons were his Servants and Thains, if he gave them, or continued them in their Employments and Lands, if he could take them away, and give them to others at pleasure, which no man of sense or reason can deny, or if *Domesday-Book* and the Survey be true, what becomes of these hundred and eighty **Freeholders**, that derived not under King *Williams* Title? they are vanished, but his most notorious Industry, and his Worthy Usage of one of the greatest and noblest Records of the Nation, do still remain. D E

(1.) *Arg. Antinorm.* p. 72.
(2.) *Ibidem*, p. 73, 74.
(3.) *Vid. Append.* n. 2, and 3.
King *William* restored Church Lands, but altered the Tenure.

Having urged the six Instances he took upon the Credit of his Industrious and Worthy Friend, our Author offers (1.) three more, from so many Charters of King *William*. The two first are Charters of Restitution of Lands to the Church of (2.) St. *Pauls*, and the Abby of *Westminster*; This we do acknowledge, and yet nevertheless he was a Conqueror; He (3.) Restored all Church Lands, but changed the Tenure, and put most of them under Military Tenure, that before were holden in *Franc Almoign*, or *Pure Alms*, and not only so, but changed likewise the Possessors of them, for in a short time after the Conquest most of the Bishops, Abbats, and great F

great Churchmen were *Normans*, the *Saxons* being thrust out and they put in, as doth appear in the History of *William* the First; and this was almost the same practice he used in disposing of Lay or Temporal Mens Estates, for the Fee of all these Estates remained in himself.

He turned out *Saxon* Bishops, and Abbats, and put in *Normans*.

A The third is the (4.) Charter of *London*. *William* King greeteth *William* Bishop, and *Godfrey* Port-Reve, or Portgereve, and all the Burgesses within *London*, French and English, and I grant that they be all Law-worthy, as they were in *Edwards* days the King, and I will that each Child be his Fathers Heir, and I will not suffer that any Man do you wrong, and God you keep.

(4.) *Arg Antinorm.* p. 74. in *Saxon*.

B Upon this Charter I shall observe, that these Priviledges were procured by (5.) this *William* Bishop of *London*, who was very inward with King *William*, and of his Council, as it was acknowledged in the Inscription upon his Monument in St. *Pauls* Church which was erected by order of a Common * Hall. Secondly, I observe, that this Bishop died in the year 1070. and that this Charter was granted before that time, and therefore no great stress can be laid upon it, for the great Promises he made to the *English-Saxons* in the beginning of his Reign, and at his first Entrance, he never much regarded, when he had totally subdued the Nation. Thirdly, I

(5.) *Godwin. de præsul.* p. 232.

* *S. P. Q. Londinens. posuit.*

C shall observe, that this Charter contained no other Priviledges, than that the Burgesses should be Law-worthy, as they were in *Edwards* days the King, that is, they should enjoy the Privileges that belonged to them as Merchants, Tradesmen, Mechanicks, and Artificers, and meerly such, for the carrying on their own Business and Employments, and the Laws, Usages, and Customs only that belonged to such Affairs, and by which they were managed and regulated in his time; No Man can imagine they medled then with

What was granted to the Citizens of *London* by K. *Williams* Charter.

D Politicks, or once offered to meddle with the Government of the Nation, or directed King *William* how to Govern, or that they can pretend he ever by this Charter could give them such liberty, or permit them so to do; All they could expect or pretend to from this Charter, was, the free use of their Calling, the enjoyment of their Estates and Goods, and that their Children should be their Heirs, and protection from Violence.

E He did not that I have read of, take away Merchants or Traders Goods, in any City or Burgh, nor put them out of their method and way of Trading, for that had been much to his disadvantage; He built Castles and Cittadels in many of the Cities and great Towns, and raised their Tolls and Customs, in some he doubled them, and with the security of his many Garisons and a great Army, it was more for his profit to maintain Trade than destroy it.

The Conqueror did not take away Merchants Goods. But increased the Toll and Customs of Cities and Burghs.

F *T. R. E. val.* (6.) *Eboraci civitas Regi 53 lib. modo C. lib. ad pensum.* In the time of King *Edward*, *York* paid to the King Fifty three pounds, now One hundred by Weight.

(6.) Domesd *f.* 298. *a col.* 2.

T. R. E. (7.) *Oxeneford reddebat pro Theloneo, & Gablo & omnibus aliis Consuetudinibus per annum Regi* 20 *lib. & 6 Sextaria Mellis, Comiti Algaro* 10 *lib. adjuncto Molino quem infra Civitatem habebat, modo reddit Oxeneford* 60 *lib. de* 20 *in ora.*

(7.) Ibidem. *f.* 154. *a, col.* 1.

In the time of King *Edward*, *Oxford* paid for Toll, Gable, and all other Cuſtoms and Payments, by the year to the King, Twenty Pounds, and ſix * Sextaries of Honey, to Earl *Algar* Ten Pounds, his Mill which he had in the City being added, now it pays Sixty Pounds of twenty in an Ore; it was a *Daniſh* word, and whether it was an Ounce in weight or Coyn, it is doubtfull, there were ſeveral ſorts, one contained 16 Denarii or Pence, another twenty, another twelve, another thirty, an Ore and a Shilling in this manner of computation was the ſame. A

* A Sextary in Liquids, was an uncertain Meaſure, ſometimes a Pint, ſometimes a Quart, a Galon, four Galons, here I take it to be a Galon.

(8.) Ibidem, *f.* 56. *b.* col. 1. *T. R. E.* (8.) *Wallingford valb.* 30 *lib. & poſt* 40 *lib. & tamen Reddit de firma quater* 20 *lib. ad numerum.*

In the time of King *Edward*, *Wallingford* was valued at 30 *l.* afterwards 40 *l.* now (that is at the time of the Survey) 60 *l.* beſides the Farm Rent which it pays 80 *l.* by Tale. B

(9) Ibidem, *f.* 36. *b.* col. 2. *T. R. E.* (9.) *Dabat.* (9.) *Stanford* 15 *lib. modo dat ad firmam* 50 *lib. de omni Conſuetudine Regis dat* 27 *lib.*

In the time, *&c. Stanford* gave 15 *l.* now it pays Farm Rent 50 *l.* and for all Payments to the King 28 *l.*

(1.) Ibidem. *f.* 280. *a.* col. 1. *T. R. E.* (1.) *Snotingaham redd.* 18 *lib. modo reddit* 30 *lib. &* 10 *lib. de moneta.* C

In, *&c. Notingham* paid 18 *l.* now it pays 30 *l.* and 10 *l.* for liberty of Coyning, the Coyners or Monetarii paid this.

(2.) Ibidem. *f.* 290. *b.* in the little Book. *T. R. E.* (2) *Gepeſwic Reddebat* 15 *lib. &* 6 *Sextarios Mellis, &* 4 *ſol. ad Conſuetudinem Mellis, &* 8 *ſol. ad prebendarios, & Rogerus vicecomes dedit totum ad firmam pro* 40 *lib. ad feſtum Sancti Michaelis, poſtea non potuit haber cenſum & ex hoc Condonavit* 60 *ſol. modo reddit* 27 *lib. & Monetarii reddebant per annum T. R. E.* 4 *lib. pro Moneta. modo debent reddere* 20 *lib. ſed de quatuor annis non reddiderunt niſi* 27 *lib. & Comes ſemper habet tertiam partem.* D

In, *&c. Ipſwich* paid 15 *l.* and ſix Sextaries of Honey, and four Shillings for the Cuſtom of Honey, and eight Shillings to Prebendaries, and *Roger* the Sheriff let the whole Town to Farm for 40 *l.* at the Feaſt of St. *Michael*, but could not get the Rent, and therefore he abated 60 *s.* now it Rents for 37 *l.* and the Moneyers or Coyners paid for the liberty of Coynage by the year, in the time of King *Edward* 4 *l.* now they ought to pay 20 *lib.* but theſe four years they have paid only 27 *l.* and the Earl always had the third part. E

(3.) Little Book, *f.* 117. *a.* * *Gærſuma* the *Saxon* word ſignifies Reward, Riches, Treaſure, or Money paid beforehand, but if *Gerſuma* for *ingerſuma*, (as it is ſometimes written) then 'tis *ingreſſus ſumma*, a Fine or Income. *T. R. E.* (3.) *Norwic. reddebat* 20 *lib. Regi, & Comiti* 10 *lib. & præter hoc* 21 *ſol. ad Præbendarios &* 6 *Sextarios Mellis, &* 1 *urſum &* 6 *canes ad urſum & modo* 70 *lib. ad penſum Regis &* C. *ſol. ad numerum, de* * *Gerſuma Reginæ, &* 1 *Aſturconem, &* 20 *lib. Blancas Comiti &* 20 *ſol. Gerſuma ad numerum.* F

In, *&c. Norwich* paid 20 *l.* to the King, and to the Earl 10 *l.* and beſides this 21 *s.* to Prebendaries, and ſix Sextaries of Honey, and one

one Bear, and six Bear-Dogs, now it pays 70 *l.* according to the Kings Standard, and 100 *s.* by Tale, the Queens Money, or a Fine or Income to the Queen, and one Pad or Palfrey, and 20 *lib.* of Silver to the Earl, and 20 *s.* by Tale for an Income or Reward.

Besides their Customs, Payments, and Tolls, they were liable to Mulcts, and Forfeitures for Crimes, nay, many or most of the very Houses in many Burghs and Cities, and may be in some all were divided amongst the *Normans*, as in *Northampton*, *Warwick*, *Southampton*, *Stadford*, and others. In other Burghs the Burgesses paid Money to the *Normans* their Patrons, as perhaps they did to the *Saxons* (4.) *Bochingheham. In hoc Burgo Episcopus Constantiensis habet tres Burgenses. Quos tenuit Wulward filius Eddere, hi reddunt sex solidos & sex denarios per annum & Regi reddunt undecim Denarios. Hugo Comes habet unum Burgensem qui fuit homo Burcardi de Senelai hic reddit 26 Denarios per annum & Regi Quinque denarios. Robertus de Olgi, habet unum Burgensem qui fuit homo Azor. f. Toti. hic reddit 16 denarios & Regi Quinque Denarios. Hugo de Bolebec habet quatuor Burgenses, qui fuerunt homines Alrici, hi reddunt 28 Denarios, & Regi 12 Denarios*; And thus were all the 26 or 27 Burgesses that were in this Town at the time of the Survey distributed amongst the *Normans*, and so in many other Burghs, see *Pevensel*, *Arundel*, *&c. Gepeswic.* (5.) *In Burgo erant T. R. E.* 538 *Burgenses reddentes Consuetudinem Regis & habebant* 40 *acr. Terræ. Modo vero sunt*, 110 *Burgenses qui consuetudinem Reddunt &* 100 **Pauperes** *Burgenses qui non possunt reddere ad Geltum Regis* (that is the Kings Custom or Payment) *nisi unum Denarium de suis Capitibus, & inter Totum simul habent* 40 *acr. Terræ &* 328 *Mansiones vastatæ sunt in Burgo quæ T. R. E. Scottabant ad geltum Regis.*

(4.) Domesd. *f.* 143. *col* 1.

(5.) Ibidem, *f.* 290. *a.*

These were the Liberties and Priviledges that other Cities and Burghs enjoyed under King *William*, what the condition of *London* was at the time of making this Survey cannot easily be known, for neither that City nor *Winchester*, nor *Abington* in *Barkshire*, nor some few others of less note are to be found there; what ever Trading Priviledges and security of their Goods they at first obtained, was from the kindness and intercession of their Bishop, *William* the Conquerors great Favourite, and if they kept them after his death, it was by their great submission and obedience to his Government, but as to their Customs and Payments, and their Tenures likewise, no Man can think but they bare a proportion to other Cities and Burghs.

Thus much for his own three Instances; He comes next to the general (6.) direction of Charters and Writs in King *William* the First his time (as he says) from which he avers it plainly demonstrable, That *William* the pretended Conqueror, did not divide all the Lands of *England* amongst his *Norman* Followers.

(6.) *Arg. Antinorm.* p. 80. *Jus Angl.* p. 124.

The first Charter (7.) is directed by King *William* to *Osmond* Bishop of *Salisbury*, *Robert* of *Ely*, (probably Sheriff of *Hertfordshire*) and *Peter* of *Valoings* Sheriff of *Essex*, to instate *Maurice* Bishop of *London* in (8.) *Stortford*, now Bishop *Stortford* Castle and other Lands. This *Maurice* a *Norman* was Consecrated Bishop of

(7.) *Antinorm* p. 80.

(8.) *Dugd.* Hist. of St. *Pauls* in *Append. f.* 196.

London 1087. in the last year of *William* the First; and whether this was the Charter of *William* the First, or *Rufus*, it may pusle them to make it out. The second is a *Saxon* Charter of King *William*, but of which King *William* I have not enquired.

* *Antinorm.* p. 81. (9.) *Monast. vol.* 1. *f.* 185. *n.* 10. (1.) *Godw. de præsul.* p. 341. * *Antinorm.* p. 81. (2.) *Monast. vol.* 1. *f.* 397.

The * third is a Charter of King *William*, but it must be of *William Rufus*, for (9.) *Robert* Bishop of *Lincoln*, which was *Robert Bloet* was a Witness to it, and he was not (1.) Consecrated Bishop of *Lincoln* until 1092. the sixth of *Rufus*. A

The fourth * is a Charter of King *Williams*, but it was of *William* (2.) *Rufus*, though the Author of *Jus Angl. &c.* boldly affirms it was the Charter of *William* the First, *pag.* 124. when as in the same Folio that he cites, (2.) the Column, and the very next numbers, he might have seen it was *Rufus* his Charter, as appears by these words. *Anno Domini* 1088. *fundata fuit Abbatia Sanctæ Mariæ, per Dominum Stephanum primum Abbatem ejusdem, Anno Regni Regis Willielmi, filii Regis Willielmi* primo. And *Rufus* confirms the Gift of *Ralph Meschines* Earl of *Cumberland*, of the Maner of *Wederhall* to this Abby which was a Cell of St. *Mary*'s in *York*; See *Monastic. Angl. f.* 397. *col.* 2. *n.* 30, 40, 50, 60. Are these just and fair Citations? to affirm these Charters to be Charters of *William* the Conqueror, when they were his Sons *Rufus*. B

C

(3.) *Antinorm.* p. 81. (4.) *Monast. vol.* 1. *f.* 29. *col.* 2. *n.* 20.

The fifth is a Charter of King (3.) *Williams*, but of *William Rufus* likewise, for *Robert* (4.) Bishop of *Lincoln* is a Witness to it, and was Consecrated as before.

* *Antinorm.* p. 82. (5.) Ibid. *Monast. n.* 40, 60.

The * sixth and seventh are about the same business of the Church of *Rochester*, with the fifth, and therefore probably by the same King, seeing they do immediately follow it in the same Column, and next numbers in the Monasticon, though 'tis not clear what time the Witnesses lived and died. D

* *Antinorm.* p. 82. Caerliel.

The * eighth as 'tis to be found in *Monast. vol.* 2. *f.* 845. *col.* 1. *n.* 60. runs thus. *Will. Rex Angl. G. vicecom. & Baronibus suis de Caerliel salutem. Volo & præcipio ut ita intendatis, de Christianitate ad Archidiacanum Dunelm. sicut intendebatis Tempore Willielmi Episcopi Dunelm. Teste* E. *dapifero.* This was to the Inhabitants of *Carleste*, that they should submit or repair to the Court of the Archdeacon of *Duresm* as formerly in the time of *William* Bishop of *Duresm*, who laid one of the three first Stones of the Cathedral Church in *Duresm*, *Anno Domini* 1093. *Aug.* 11. and died *Anno Domini* 1096. *Decimo Rufi. Godw. de præsul. Dunelm. p.* 108, 109. E

* *Monast. vol.* 2. *f.* 845.

The ninth is of King *William*, but of King *William Rufus*, for it is a * Restitution of *Ralph* Bishop of *Duresm* to several Lands, and he was not Consecrated until the Thirteenth of *Rufus*, the Bishoprick being void three years and four Months after the death of *William* aforesaid, *Godw. de præsul.* p. 109. F

(6.) *Antinorm.* p. 82.

The three (6.) that follow are the Charters of *Henry* the First, and thus I have given some check to *Antinormanicum*'s Confidence in affirming, that the **Charters** he cites were the Charters of *William* the

the First. But be they who they may, the Directions of them, *Baronibus & fidelibus suis* **Francis & Anglis**, which he so much insists upon, signifie nothing, they were but words of course and common Form, and expressed no more the Quality, Nation, or State and Condition of those Persons, than the words, *Omnibus Christi fidelibus, notum sit omnibus, noverint universi, sciant tam futuri, quam præsentes*, or *sciat universitas vestra* did in old Charters, by which they were directed to the whole World; when such Charters with such Directions concerned only particular Persons, and the Contents of them were about particular Matters.

Yet if any one desires further satisfaction, let him see the Glossary in the words *Angli & Franci*, and I may hope he will be induced to believe, by what is said there, that if these Directions were of any Consideration, yet the *French* and *English* Barons and Fideles or Vassals there meant, were *English* and *French-Normans*, and not *English-Saxons* and *Normans*.

From the Directions of these Charters he proceeds to two (7.) Branches of King *William* the First his *Magna Charta*, *viz.* (8.) to Law or Chapter 55, and 63. these two Laws have been sufficiently spoken to before in this Answer, where it hath been made appear that neither of them were made with respect to the *English-Saxons*; Here I shall only remark, that he hath culled out what he thought made for his purpose, and left out two intermediate Laws, *viz.* the * 58, and 59. that would have told him for whose sake these Laws were made, and who the Freemen were that were to have the benefit of them, to wit, all the Freemen of the Kingdom that held Lands by the Gift of the Conqueror confirmed by Common Council, to furnish themselves, and be ready with Horse and Arms, to defend his Crown and Dignity against his Enemies, (which perhaps our Author will not think were *Normans*) when he hath well considered the matter.

(7.) *Antinorm.* p. 84. Mr. *Petyt's* Preface, p. 32, 33. *Jus Angl.* p. 128, 129.
(8.) *Selden not. ad Eadm. f.* 190. *n.* 40. *f.* 192. *n.* 20.
* Ibid. *f.* 191. *n.* 12, 20, 30.

Next, as he (9.) says, he troubles his Reader with one more memorable Record as late as to the 26 *Hen.* 3. which shews, that from before the coming in of this *Norman* Conqueror, down to that time, the *English* had a property continued to them; and so then, this mighty Man of Victory did not govern them as an intire and absolute Conqueror, whatever our late Writers have been pleased to publish to the World.

(9.) *Antinorm.* p. 85, 86. *Jus Angl.* p. 112, 113.

The words of the Record are.

Rex (1.) *Baronibus, Mandamus vobis quod occasione arrentationis serjantiarum assessæ per Robertum Passelewe non distringas* **Jacobum** *de* **Archamgere**, *per 2 Marc. & dimid. de tenemento quod de nobis Tenet per serjantiam in Archamgere, in Comitatu Southampton, &c. per chartam Beati Regis Edwardi Antecessoribus ipsius* **Jacobi** *super hoc Confectam. Sed ipsum* **Jacobum** *de prædictis 2 Marcis & dimid. quietum faciatis in perpetuum Quia chartam Beati Edwardi Confirmavimus, & ipsam volumus inviolabiliter observari.*

(1.) *Comin. de Term. Mich.* as there cited, 36 *Hen.* 3. *Pro Jacobo Archamgere.*

In

In *Engliſh* thus.

(2.) *Antinorm.* p. 87.

The King (2.) to the Barons (of the Exchequer) We Command you that by the occaſion of the Rent of Serjanties, aſſeſſed by *Robert Paſſelewe*, you ſhall diſtrain *Jacob* of *Archamger*, by two Marks and an half for the Eſtate or Tenement he holds of Us by Serjanty, in *Archamgere* in the County of *Southampton*, *&c.* by Charter of King *Edward* made to the Anteceſſors of this *Jacob* concerning it, and this *Jacob* of the aforeſaid two Marks and an half, you ſhall quit for ever, becauſe we have confirmed the Charter of the aforeſaid St. *Edward*, and we will have it to be inviolably obſerved. A

(3.) Ibidem, & p. 88.

The invalidity and inſufficiency of this Record to prove what our Author would have it, *viz.* That the (3.) *Engliſh* were not put out of their Properties, which they held and enjoyed in the time of *Edward* the Confeſſor, but that they ſtill enjoyed them as before, notwithſtanding all the vain pretences to the contrary, ſhall be ſhewn by this more Authentick and Ancient Record. B

(4.) Domeſday-Book.

Hanteſcire, (4.) *f.* 49. *b. col.* 2.

Terra **Tainorum Regis.**

C

Edwinus Tenet Acangre, & dicit quia emit de Rege Willielmo, ſed **Scira** *neſcit hoc.* **Alwi Tenuit** *de Rege Edwardo, & nunc* **Richardus** *tenet de* **Edwino**, *T. R. E. ſe defendebat pro una hida, & una virgata, Terra eſt Quatuor Carucarum, in Dominico ſunt Duæ & octo villani & 5 Bordarii cum tribus carucis, & duo ſervi & duæ acræ, prati, T. R. E. & poſt valuit* 40 *ſol. modo* 60 *ſol.*

D

The Kings Servants Land.

Edwin holds *Acangre*, and ſays, becauſe he bought it of King *William*, but the Shire knows not this. *Alwi* held it of King *Edward*, and now *Richard* holds it of *Edwin*. It defended it ſelf, or was taxed and valued at one Hide, and one Virgate, the Land is four Carucates or Ploughlands, there are two in Demeaſn, and eight Villans and five Bordars with three Ploughs, and two Servants, and two Acres of Meadow; In the time of King *Edward* and afterward it was worth 40 *s.* (by the year) now 3 *l.* E

This *Acangre* muſt be that place which was afterward called *Archamgere*, or there was no ſuch place in *Edward* the Confeſſors or the Conquerors time in this County. This was holden in *Serjanty* at the time of the Conqueſt, for *Serjanty* ſignifies no more than Service, and this Land was holden by one of the Kings Servants, as appears by the Title, and there can be no doubt but he performed his Service for which he held it. When the Condition of Lands was changed, and they began to be improved, and our ancient Kings let many of them out in Fee-farm, there was no need or Employment for many of theſe Servants, and then their Services began to be changed into Mony, and to be rated by the Kings Officers; This was the care here, and *James Archamgere* pleads a Charter of King *Edward* the F

Confeſſor

Confeſſor in diſcharge of ſuch Aſſeſſment, which was allowed. The Judges, as hath been before obſerved, were impoſed upon by a falſe Deſcent in the Prior of *Coventry*'s Caſe; and 'tis very probable in this caſe they were impoſed upon by a forged and falſe Charter of King *Edward*, for if they had had Recourſe to *Domeſday-Book*, they would have found that the Anteceſſors of *Archamgere* could not be Kindred or Anceſtors in Blood, but only in Poſſeſſion, and that King *Edwards* Charter, if any ſuch were, could make nothing for this Perſon; for *Alwi* that held it of King *Edward* in his time, was outed, and *Edwin* had poſſeſſion of it, and held it of King *William*, and *Richard* under him; nor can it be true that *Archamger*, or any one that had the poſſeſſion of it before him, was in poſſeſſion of this place, as well in the Confeſſors as Conquerors time, and therefore it cannot be proved from this memorable Record, that the *Engliſh* ſtill enjoyed their Properties in the time of King *William*, as they had done in the time of King *Edward*.

At laſt our Author ſhuts up this Point with (5.) two or three Paſſages of Ordericus Vitalis which he had from Picavienſis, and which have been fully Conſidered in the beginning of this Anſwer, as likewiſe his Deductions from theſe Paſſages, and thoſe words of Picavienſis, (6.) *Nulli tamen Gallo datum eſt, Quod Anglo cuiquam injuſte fuerit ablatum.* And therefore I refer the Reader to what hath been ſaid there.

(5.) *Antinorm.* p. 88.

(6.) Ibidem, p. 93. & *Jus Angl.* p. 115.

The Fourth Queſtion is,

Whether (7.) it be not a grand Error to affirm, that there were no *Engliſhmen* in the Common Council of the whole Kingdom?

(7.) *Antinorm* p. 95.

The main (8.) pinch and ſtreſs of this Queſtion our Author ſays, is, whether after *William* the Conqueror had ſetled himſelf as well as he could on the *Engliſh* Throne, he did admit any of the *Engliſh* to ſit in the great Council of the Nation, and to Adviſe and Conſult *de Arduis, & urgentibus negotiis Regni.*

(8.) Ibidem, p. 96.

By thus laying down the pinch and ſtreſs (as he calls them) of this Queſtion, he hath not only truly ſtated it, but likewiſe all the other three, by reducing them to their true time, wherein we ought to make a Judgment of King *Williams* Actions, Government, and Behaviour in this Nation.

But in this very (9.) Paragraph he ſays, that the grand Court of Parliament was in ſubſtance the ſame, that it was before the coming in of this Conqueror, and that there were *Engliſhmen* Members of it in the time of the Conqueror; The firſt is eaſily granted him, if he means, the Great Council or Parliament conſiſted of the ſame Head and Members, that is, of the King, Biſhops, Abbats, and the Baronage or Nobility. But for the other he is to recollect himſelf, where the pinch and ſtreſs of the Queſtion lies, and then let him tell me whether he thinks after King *William* had fully Eſtabliſhed himſelf in the *Engliſh* Throne, he called any of the *Saxons* to his Great Councils.

(9.) Ibidem.

Yet

(1.) Ibidem, p. 97, 98, 99, 100.

Yet prove it he will, from the continuance of (1.) leſſer Courts, as County Courts, Hundred Courts, and Court Barons, after the Conqueſt. It will not be denied but that County Courts and Hundred Courts did remain, that is, there were Courts holden in ſuch Portions of the Nation as Counties were, for ſuch Portions; and in ſuch Diviſions of Counties as Hundreds were, for ſuch Diviſions, that right might be done in them for the eaſe and conveniency of the People, (for the Nation was divided into ſuch Shares and Portions long before the Conqueſt) but that the ſame Law, and the ſame Courſe and Method of Proceedings was uſed before and after the Conqueſt, remains yet to be made appear. In many things the *Norman* and our *Saxon* Laws agreed, as being derived to both from *North-Germany*; and though in *Normandy* there was no County or Hundreds, yet there were Bayliwicks which reſembled our Counties, and Viſcounts which reſembled our Hundreds, though perhaps they were much larger. There was and is in *Normandy* ſeven (2.) principal Bailliages or Bayliwicks, *viz.* of *Roven*, *Caen*, *Caux*, *Conſtentin*, *Eureux*, *Giſors*, *Alencon*, and every one of theſe had their Bayliff or chief Officer who was Judge in the Bayliwick Court, and hence it is that in our old Law Books and Records, and in ſome Law Proceedings, a County is called *Baliva*, and hence alſo the reaſon of the Form of the Return, *Non eſt inventus in Baliva mea.* As before was noted, Hundreds there were none, but many Vicounties and Liberties, as the Vicounty of *Roven*, of *Caen*, of *Bayeux*, of *Fallaiſe*, of *Giſors*, of *Vernon*, of *Caudebec*, and (3.) thirteen more, which had their Juriſdictions in and over many Villages, as to mean Juſtice, and Pleas of ſmaller matters than thoſe of the Bailliage, that were holden from fifteen to fifteen days, and at this day ordinary Judges in Villages are called Vicounts in many places in *Nomandy*. Laſtly, as to Court Barons, or Lords Courts in their ſeveral Maners, the *Saxon* Lords had a Juriſdiction of their Tenents and Reſidents in their Fees, but not the ſame Fiefal or Feodal Juriſdiction which the (4.) *Normans* brought with them, nor was there the ſame Law, Form, Uſages, and Proceedings in *Saxon* Maners and Juriſdictions Feodal, as ſince the Conqueſt; for the Terms, Uſages and Forms of Proceedings we yet retain in the Courts-Baron, we received from the *Normans*. Who will have further ſatisfaction in this point, let him peruſe the parallel between the *Engliſh* and *Norman* Laws in the Preface to the *Norman* Story. But what if it be granted, that he did permit theſe ſmall Courts of Juſtice to remain, and have their courſe in ſuch matters as touched not his Government and Eſtabliſhment, certainly he might be a Conqueror notwithſtanding that.

(2.) *Du Cheſne Antiquit. des villes*, &c. p. 938.

(3.) *Berault* in the local Cuſtoms of theſe Places.

(4.) Old Cuſtom, *c.* 2. & *c.* 30.

(5.) *Antinorm.* p. 100.

From the ſmall Courts, he comes to the (5.) Soveraign Court of Parliament it ſelf, to ſhew what it was, and of whom it conſiſted in the *Saxon* times, and for this he thinks it (6.) needleſs to give any more than one Inſtance, which does (7.) impregnably aſſert, That the Commons of *England* were an Eſſential and Conſtituent part of the *Saxon* General Councils, and fully and clearly (8.) refute and baffle that Novel Erroneous Notion, that there are no Commons to be found in the *Saxon* Great Councils, nor any thing that tends towards the proof of the Commons of thoſe times, to have had any ſhare in making Laws in thoſe Councils; and his (9.) Memorable Inſtance is the (1.) mighty Law of Tithes (as he calls it) which was made and ordained.

(6.) (7.) (8.) (9.) (1.) Ibid. p. 101.

(2.) *A*

(2.) *A Rege, Baronibus, & Populo.*

(2.) Ibidem, *Lamb. Ll. Edw. Reg. c. 8. f. 139.*

These are indeed mighty words for a little Man, he thinks this Law was made in King *Edwards* days, and was Piping-hot when the Conqueror came in, but it will prove otherwise upon examination of it, and also doubtful whether there was ever such a Law or not, made by a *Saxon* Monarch or King. For after the (3.) Law hath enumerated, the maner of Tithing in very many things both great and small, requiring an exact Tenth to be paid for most of them; it says, that he which detains the Tenth, if need be, may be forced to payment by the Justice of the Bishop and King, and then immediately follows these words. *Hæc enim prædicavit Beatus Augustinus, & Concessa sunt a* **Rege, Baronibus & Populo.** *Sed postea instinctu diaboli, Multi eam detinuerunt, & sacerdotes locupletes negligentes, non Curabant inire laborem, ad perquirendas eas, eo quod sufficienter habebant suæ necessaria vitæ.* These things St. *Augustin* Preached up, and they were granted by the King, Barons, and People, but afterwards by the instinct of the Devil, many detained them, and the rich Priests were negligent, not caring to be at the trouble to recover them, having sufficient for their own support.

(3.) *Lamb. Ibidem.*

Hence 'tis evident, that these Concessions of Tithes were made in the time of St. *Augustin* upon his Preaching, that is, of *Augustin* Arch-Bishop of *Canterbury*, sent hither from *Rome* in the Reign of *Ethelbert* King of *Kent*, for the words, *& Concessa sunt a* **Rege, Baronibus, & Populo,** can relate to no other than the words immediately preceeding, *Hæc enim prædicavit Beatus Augustinus.* And the words next following them do also prove the same; *Sed postea instinctu Diaboli, Multi eam (Decimam, viz.) Detinuerunt, &c.* which was after they were granted by the King, Barons, and People, so that this was at most but the Confirmation of a Law made by King *Ethelbert*, and how, and by what words the Legislators were expressed, near 500 years after the Law made, or how they were rendred in *Latin* after the coming of the *Normans*, transiently and without design to give an account of them, cannot be of much value to prove who they were; and that the Laws of King *Edward* were made, or at least Translated into *Norman Latin* after the Conquest, appears by the words, *Comites, Barones, Milites, Servientes, Servitium, Villanus, Catalla, Manutenere*; all *Norman* words, and not known here until their coming hither. He that will assert any thing from a single uncouth Expression in one case, and upon one occasion only, brings but a slender proof for what he says. *Rex mandavit*, says (4.) *Florence* of *Worcester, ut Archiepiscopi, Episcopi, Albates, Comites, Barones, Vicecomites, cum suis Militibus, die Calendarum Augusti sibi occurrerent Searesberiæ. Quo cum venissent Milites eorum, sibi fidelitatem contra omnes homines Jurare Coegit.* *Simeon* of *Durham*, and *Hoveden* have the very same words: *Hen.* of *Huntington* somewhat strangely, explains this Meeting, and expresses it otherwise, (5.) *Willielmus Rex*, (saith he) *accipiens Hominium omnium Terrariorum Angliæ, Cujuscunque feudi essent, juramentum etiam fidelitatis recipere non distulit.* Here the Milites, such as held Lands in Military Services, of the Arch-Bishops, Bishops, Earls, Barons, *&c.* are called *Terrarii.* Would any Man therefore think these *Terrarii*

(4.) *Fol. 641.*

(5.) *Fol. 212. a. n. 20.*

were ordinary Landholders, and Terr-Tenents; surely not, they did no Homage. *Ralph de Diceto* expresseth it yet more uncouthly, (6.) *Rex Willielmus Convocatis tam Clero, quam Baronibus, apud Searesberie, omnes sibi fidelitatem Contra omnes homines jurare Coacti sunt*; Doth any Man think that the Arch-Bishops, Bishops, and Abbats (here meant by the Clergy) were not Barons, because *Ralph de Diceto* says upon this occasion only, that he called together as well the Clergy as the Barons?

(6.) Col. 487. n. 60.

A

So will any Man think, because 'tis said in one of King (7.) *Edwards* Laws, and perhaps no where else, concerning the Kings Coronation, *Quod debet in propria persona coram Regno, & Sacerdotio, & Clero jurare antequam ab Archiepiscopis & Episcopis Regni coronetur.* That the Priests were not Clergymen, nor the Clergymen Priests; and that the Arch-Bishops and Bishops were neither? Many other uncouth Expressions do often occur in the old Monks, which are to be interpreted according to the common usage and practice of the times in which they are delivered; and therefore seeing before the time of the Conquest, and for two or near three Centuries of years afterward, the Commons (as at this day understood) were not (8.) called, nor did come to Great Councils or Parliaments. By **Barons** here must be meant the great Barons, and by **Populus**, the *Communitas Angliæ*, or which was then all one, the *Communitas Baronum*, the lesser Barons or Tenents *in Capite*; and this sense of the words is further confirmed by the famous (9.) Exemplification or Declaration of the Sentence of Excommunication pronounced against the Infringers of *Magna Charta*, where towards the latter end are these words; *Dominus Rex & prædicti Magnates omnes (R. Comes Norff. & Mareschallus Angliæ, H. Comes Hereford & Essex. J. Comes de Warwic, Petrus de Sabaudia* there named; *cæterique Magnates Angliæ) & communitas populi protestantur publice in presentia venerabilium patrum B. Dei Gratia Cantuarien. Archiepiscopi totius Angl. Primat. nec non & Episcoporum omnium in eodem colloquio existentium.* In this Record (1.) the *Communitas Populi*, as distinguished from the *Magnates*, the great Barons there named, and the rest of the great Barons of *England*, were the Community of the Laity, or Community of the less Barons, or Tenents *in Capite*, as hath been formerly proved and asserted against Mr. *Petyt*.

(7.) *Ll. 17. Edw. Lamb. fol. 142.*

(8.) See Answer to Mr. *Petyt*, *f.*

((9.) *Pat. 37. Hen. 3. m. 13.*

(1.) Answer to Mr. *Petyt.*

B

C

D

After this mighty Instance, (2.) he says, Laws were here setled, not *Ex plenitudine Regiæ potestatis*, nor by the *Norman* Barons co-operating with that power, but by the joint Advice and unanimous Consent of the grand Council of the Lords and Wise Men of the Kingdom of *England*. (3.) To prove which, he produceth the Testimony of many ancient Writers, whom no Man, he says, of Historical Understanding, can modestly impeach of Partiality, Faction, or Interest in the Case in Question.

(2.) *Antinorm.* p. 102.

(3.) Ibidem.

E

The first (4.) Testimony is out of the Chronicle of *Litchfield*, which he cites out of *Lambard*, *f.* 158. the words in that Book are these, *Anno Gulielmus Regni sui quarto, apud Londonias Consilio Baronum suorum, fecit summoniri per universos Angliæ Comitatus, omnes Nobiles, sapientes, & suâ Lege eruditos, ut eorum leges & Consuetudines audiret, & licet idem Rex Willielmus leges Northfolkiæ & Suffolkiæ, Grantbrigiæ*

(4.) Ibidem.

F

brigiæ & Deiræ (ubi quondam maxima pars Danorum & Norwegenſium inhabitabant) prius magis approbaverat, & eas per totum Regnum obſervari præceperat, pro eo quod omnes anteceſſores ejus & fere omnes **Barones** *Normanniæ, Norwegenſes extitiſſent, & quod de Norwegia olim veniſſent. Sed poſtea ad præces* **Comunitatis** *Anglorum* **Rex adquievit,** *qui deprecati ſunt quatenus permitteret, ſibi leges* **propias** *&* **conſuetudines** *antiquas habere in quibus vixerant patres eorum, & ipſi in eis nati, & nutriti ſunt, ſcilicet leges Sancti Regis Edwardi, & ex illo Die magna authoritate veneratæ, & per univerſum Regnum corroboratæ, & conſervatæ ſunt, præ cæteris Regni legibus leges Regis Edwardi.*

From this Hiſtory he aſſerts, Firſt, That this was a Parliament; Secondly, That the *Barones ſui* were *Engliſh* not *Normans*, and that in this great Council were all the *Engliſh Nobiles & Sapientes*, Nobility and Wiſemen, and that the Commons were here alſo, becauſe King *William* granted theſe Laws *ad præces* (5.) *Communitatis Anglorum.* Concerning the improbability and partiality of this Hiſtory I ſhall ſpeak in another place, more than is ſaid before in handling his ſecond Queſtion. But whether this Story be true or not, it ſhall be granted to be ſo; but then our Author muſt remember what he ſaid before, That the ſtreſs of the Queſtion was, whether when *William* had ſetled himſelf as well as he could upon the *Engliſh* Throne, he admitted any *Engliſh* into his great Councils to Adviſe and Conſult about the difficult and urgent Buſineſs of the Kingdom, and then he may Anſwer this Teſtimony himſelf, eſpecially if it be conſidered, that it cannot be made appear, that King *William* kept all the Promiſes he made at all times.

(5.) *Ibidem*, p. 103. p. 111. *Jus Angl.* p. 148.

This Grant was made, and the great Councils holden in the Fourth year of his Reign, but then he had not ſetled himſelf ſo well as he could, then he had not made an intire Conqueſt of the Nation; that was not done until after the great appearance of the Natural *Engliſh* in Arms, and the great meeting which *Frederic* Abbat of St. *Albans* with others headed at *Berkhamſtead*, which was not until above two years at leaſt, if not five afterwards. For this Abbat after the breaking up of that meeting, and *William*'s ſevere uſage of the *Engliſh* immediately upon it, (6.) went into the Iſle of *Ely*, (as was ſaid before) and there ſoon after died. But in the Sixth (7.) year of King *William*, *Anno Dom.* 1072. he was (8.) at Court at *Windſor* in the Feaſt of *Pentecoſt*, and there Signed the Agreement between *Lanfranc* Arch-Biſhop of *Canterbury*, and *Thomas* Arch-Biſhop of *York* about the Primacy; Nay, he was in the *London* Council holden in the Ninth of King *William*, *Anno Dom.* 1075. ſubſcribed it, *Spelm. Councils 2. vol. f.* 9. After the King (9.) heard of *Frederic*'s death in the Iſle of *Ely*, he took the Abby of St. *Albans* into his own hands, and ſo kept it, until Arch-Biſhop *Lanfranc* prevailed with him to make his Kinſman *Paul*, a *Norman* Monk, Abbat thereof, which was in the year of our Lord 1077. on the Twenty eighth of *June*, in the Eleventh year of the Conqueror, of whom *Mat. Paris* (1.) ſays, *Hic primus Abbas hujus Eccleſiæ fuit, poſtquam Anglia Normannis fuit penitus ſubjugata.* This was the firſt Abbat of this Church after *England* was entirely ſubdued by the *Normans*; ſo that this Teſtimony he brings from *Litchfield* Chronicle was before he

(6.) M. Paris, *vit. Abb. f.* 49 *lin.* 3. and *n.* 10.
(7.) *Malmſb. f.* 65. *b. n.* 30.
(8.) *Ibid. f.* 66. *a. n.* 10, 20.
(9.) *Mat Par. in vit. Abb. f.* 49. *n.* 20, 30.
(1.) *Ibidem.*

he had ſetled himſelf as well as he could or intended, and therefore proves nothing, nor is it any ways to his purpoſe.

(2.) *Antinorm.* 107, 108.

His ſecond Teſtimony is (2.) out of *Gervaſe* of *Canterbury*, *Col.* 1653. *lin.* 5. the words theſe, about the Election of Arch-Biſhop *Lanfranc*; *Eligentibus eum ſenioribus ejuſdem Eccleſiæ, cum Epiſcopis ac Principibus,* **Clero** & **Populo** *Angliæ in Curia Regis in Aſſumptione Sanctæ Mariæ.* The *Epiſcopi & Principes*, Biſhops and Princes, the **Clerus & Populus**, the Clergy and People, or Laity, were in this place the ſame Perſons, and only expreſſive one of another; and here is no mention either of *French* or *Engliſh*, ſo that this can be brought only to prove that there were great Councils or Parliaments in the time of the Conqueror, which no body denies; and if this were really a great Council, he gains nothing by it, for the meeting was about the Fourth of the Conqueror, ſome years before he had made an abſolute Conqueſt, and upon that fixed himſelf in the Throne.

(3.) *Ibidem*, p. 108.

What he hath out of the ſhort Account of King *William*, at the end of *Taylors* (3.) *Gavelkind*, concerning the promotion of *Lanfranc*, is of the ſame ſignification, though the words vary, and the Expreſſions are not the ſame; nor doth it prove more than the other, that any *Engliſh* were in this Council.

(4.) *Taylors Gavelk.* p. 194.

The words are, (4.) *Rex mittens propter illum* (that is *Lanfranc*) *in Normanniam fecit eum venire in Angliam, eique conſenſu & auxilio omnium Baronum ſuorum, omniumque Epiſcoporum & Abbatum, totiuſque populi Angliæ commiſit ei Dorobernenſem Eccleſiam.* From this confuſed Report of *Lanfranc*'s being made Arch-Biſhop, there can nothing be collected, but that his Barons, that is his Temporal Barons, and the Biſhops and Abbats, applauded and liked the Kings choice, as did alſo the other Laicks; for 'tis not to be ſuppoſed, that all the People in *England*, which our Author would have comprehended under the words, *Totius Populi*, or the hundredth part of them ever knew of, or underſtood *Lanfranc*'s being made Arch-Biſhop; and a Man would wonder, if free choice, then ſignified as it doth now, how the *Saxon-Engliſh* Barons, Biſhops, or the whole People, ſhould chooſe a Stranger, a Perſon they had not known, a Monk firſt, then Prior of the Monaſtery of *Bec* in *Normandy*, afterwards by the Conqueror made an Abbat of the Monaſtery he had founded in *Caen*, and *Poſtpone* all their own deſerving Countrymen, it will be ſomewhat difficult to conceive.

(5.) *Antinorm.* p. 108.

The third Teſtimony is from a (5.) General Council or Parliament (as he calls it) held at *Weſtminſter* in the Fourteenth year of King *William*, in the Charter of Liberties he granted to that Monaſtery; in his Margin he cites a Cartulary out of *Cottons* Library, and *Dugdales Origines Juriſdiciales*, which cites that Manuſcript.

(6.) *Council, Tom. 2. fol.* 14.

But Sir *Henry* (6.) *Spelman* hath it more fully in the year 1077. and the Eleventh of the Conqueror, whoſe words I will recite, which are ſomewhat more than our Author mentions, and for what he tranſcribes are the very ſame.

In Chartâ Willielmi primi A. 1077. *Monaſterio Weſtmonaſterienſi poſt Nomina Teſtium, Scilicit,* **Archiepiſcoporum, Epiſcoporum, Comitum,** *&* **aliorum Seniorum,** *hæc pro authoritate Regis ad cauſas Eccleſi-*

Ecclesiasticas tractandas inseritur. Ego Robertus de Oleyo confirmavi, Ego Hamo Dapifer signavi; multis præterea illustrium virorum personis, & regni principibus diversi ordinis omissis; qui similiter suæ confirmationi, piissimo affectu testes & fautores fuerunt. Hi etiam illo tempore à Regia potestate è **diversis provinciis, & urbibus,** *ad universalem synodum, pro causis cujuslibet Sanctæ Ecclesiæ audiendis, & tractandis ad præscriptum celeberrimum cœnobium quod Westmonasterienſe dicitur Convocati.*

A Upon part of this Fragment out of the Cartulary of the Abby of *Westminster*, he makes this (7.) Gloss. That not only the great Clergy and the Temporal Nobility, but the *Principes diversi ordinis à Regia potestate Diversis* **provinciis & urbibus** *ad universalem Synodum convocati, &c. viz.* The chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of their several respective Counties, Cities, and (8.) Burroughs, to this General Synod or Parliament.

(7.) *Antinorm.* p. 111.

(8.) Ibidem. p. 112.

B But First, Notwithstanding his Descant, the *Principes diversi ordinis* in this place, were only Bishops, Abbats, the great and dignified Clergy, and the Temporal Nobility, Earls, and Barons, the *Proceres* and *Magnates*, or in general, the Clergy and Laity that usually came to such Assemblies. To this purpose (9.) *Florence* of *Worcester*, *Rex fuit apud Westmonasterium, & cum eo omnes Principes Regni Ecclesiastici, & secularis ordinis.* The King was at *Westminster*, and all the Princes and chief Men of the Ecclesiastick and Secular Order. *Eadmer* (1.) of this very great C Council, says, *Primates Regni utriusque ordinis huic conventui affuerunt.* To the same purpose 'tis said of another great Council, (2.) *Convenerunt ad Regalem Curiam apud Wentanam Civitatem in Paschali solennitate,* **Episcopi, Abbates, ceteri ex sacro & Laicali** *ordine.* There met at *Winchester* in the Kings Court, in the Solemnity of *Easter*, the Bishops, Abbats, and the rest of the Sacred and Lay Order. And *Malmsbury* giving an account of the Determination of the Controversie between the two Archbishops at *Windsor*, says thus, (3.) *Ubi & finem accepit in præsentia* D *Regis & Episcoporum, & Abbatum Diversorum ordinum; qui congregati erant apud Curiam Regiam.* Hence it is clear what the *Principes diversi ordinis*, or *utriusque ordinis* were; to wit, the chief of the Clergy and Laity, *Magnates & Proceres*, the Bishops, Abbats, Earls, Barons, and Temporal Nobility.

(9.) Fol. 651. lin. 22. 3 *Hen.* 1

(1.) F. 67. n. 20. A.D. 1102. 3 *Hen.* 1.

(2.) *Lib. Ms. in Bib. Cot. sub. Effig. Cleopat. E.* 1. *A. D.* 1072.

(3.) F. 66. a. n. 10.

Nor, Secondly, Is our Author less ignorant and mistaken in the meaning of Cities and Provinces in this place, and the Persons that came from them. In the Ninth of the Conqueror, *Anno Dom.* 1075. E there was a great Council held at *London* by Archbishop *Lanfranc*, (4.) in which according to the Decrees of Pope *Damasus* and *Leo*, and of the Councils of *Sardis*, and *Laodicea*, That Bishops Seats should be removed from Villages to Cities, by Royal Munificence, and Synodal Authority it was granted, That *Herman* Bishop of *Sherborn* in *Dorsetshire*, should remove to *Salisbury*, *Stigand* Bishop of *Selesy* in *Sussex* to *Chichester*, and *Peter* Bishop of *Lichfield* to *West-Chester*; and then it immediately follows, *De quibusdam qui in* **Villis** *& vicis adhuc degebant,* F *Dilatum est usque ad Regis audientiam, qui in transmarinis partibus tunc temporis bella gerebat.* Concerning some others which yet lived in Villages, the matter was put off to the Kings hearing of it, who was then busie in War beyond Sea. Now Sir *Henry Spelman* placeth this Council in the Eleventh of King *William*, which our Author cites as in the 14th of his Reign, two years, or if our Author be in the right, it was five years after that at *London*, wherein Provision was made for translating Bishops

(4.) *Spelm. Count. vol.* 2. f. 7, &c.

ſhops Seats from Villages to Cities, which proviſion in all things, and as to all Perſons was not then ſetled, for the reaſon above given; and therefore was this univerſal Synod called, for hearing and handling the Cauſes of every Holy, or as 'tis in our Author, Chriſtian Church. This every Holy Church was in *England* (for an *Engliſh* Synod had nothing to do with Churches beyond Sea) and under thoſe words were contained many Churches, which in reaſon and probability could not be meant of the ſmall Pariſh Churches all the Nation over, and therefore muſt be underſtood of Cathedrals, or Churches where Biſhops Seats then were, or where they had been or were to be removed. A

From whence we may very rationally conclude, and affirm, That this Synod was called for the perfecting and Eſtabliſhing ſuch things as were left undone in the Synod of *London*, That the Perſons ſummoned by the King to this Synod from Provinces and Cities, or from Counties, *Diœceſes*, or Cities, were ſuch as were concerned, or were able to adviſe and inform the King in this matter, and of the conveniency of the Places whither the Removals were to be made, as Deans, Arch-Deacons, and other Dignified Perſons and Church-Officers, as well of the Laity as Clergy, but more particularly ſuch whoſe Intereſt was to be ſecured in this Tranſplantation. And alſo the *Principes Regni*, the great Nobility, who were in thoſe times always preſent in ſuch Synods and Aſſemblies; and that Province and *Diœceſe* were ſometimes the ſame thing, take this pregnant proof. *Henry* the Second, in the Fifteenth of his Reign, *Anno Domini* 1169. ſet forth certain (5.) Articles in contradiction to the Popes pretended Authority, and for reducing the Clergy to the Obedience of his Laws, amongſt which the third (6.) Article was to the purpoſe following, *Omnes Clerici qui habent Redditus in Anglia, & ſunt extra Angliam, ſummoneantur per omnes Comitatus, &* **Provincias**, *Quod in feſtum Sancti Hillarii redeant in Angliam, & ſi non venerint ad terminum illum, omnes Reditus eorum Capiantur in manus Domini Regis & ipſi ſint ſine ſpe revertendi; & Vicecomites faciant hoc ſciri, Archiepiſcopis, & Epiſcopis de* **Provinciis** *ſuis*: Let all Clerks that have Rents in *England*, and are out of *England*, be ſummoned in the ſeveral Counties and Provinces, That they return into *England* by the Feaſt of St. *Hillary*, and if they do not, let their Rents be taken into the Kings hands, and ſuffer them not to return; and the Sheriffs ſhall give notice of this to the Archbiſhops, and Biſhops, of their reſpective Provinces. *Diocæſes* in this place, as well as Counties, were meant and underſtood by *Provinces*. B C D

(5.) *Chron. Gervaſ. Col.* 1408. n. 50, 60. (6.) Ibidem. Col. 1409. n. 10.

A. D. 1138. But by what follows it's more than clear; *Decima tertia die Decembris celebrata eſt Synodus apud* Weſtmonaſterium, *cui præfuit Albericus Hoſtienſis Epiſcopus Domini Papæ Legatus, cum Epiſcopis* **Diverſarum Provinciarum** *numero* xvii *Abbatibus fere* xxx. &c. *Ric. Hagulſtadenſis* col. 327. lin. 1. Chron. Gervaſ. col. 1347. n. 10, 20. Contin. of *Flor.* of *Worceſter*, f. 671. lin. 12. on the 13th of *December*, there was a Synod holden at *Weſtminſter*, in which *Alberic* Biſhop of *Oſtia*, and the Pope's Legate preſided, with the Biſhops of divers Provinces, in number Seventeen, and almoſt Thirty Abbats. There can be no Cavil raiſed here, againſt the uſe of the word Provinces for Diœceſes or Dioceſſes. E

Immediately before this Gloſs upon this Fragment of the Charter aforeſaid, he had (7.) aſſerted there was an Eſſential part of the great Councils or Parliaments, in the time of *William* the First, which was the *Comunitas Anglorum*, the Comunity of *Engliſh-men*, which words he had out of the Fragment of *Litchfield*'s Chronicle before cited, in his firſt Teſtimony; where 'tis ſaid, That King *William* granted to the *Engliſh* their ancient Laws and Cuſtoms, *ad preces* **Comunitatis** *Anglorum*, upon the Petition and earneſt Requeſt of the Comunity of *Engliſh*: and what theſe were, he might have been eaſily informed himſelf, if he had looked in the Laws F

(7.) *Antinorm.* p. 111.

aſcribed

ascribed to *Edward* the Confessor, where 'tis said, in the very same case, and upon the very same occasion, That, *Habito Consilio,* **precatui Baronum** *tandem acquievit*, at length King *William* taking Advice, or calling a Council, yielded to the Petition of his Barons; Or into *Hoveden*, where upon the very same matter and occasion, he hath the very same words with those in the Confessors Laws; so that from hence it is manifest, That *Communitas Anglorum*, and **Communitas Baronum** were then, and in these places, words of the same signification, and the Persons intended by them, the same; that is, the Community of Barons, and not of the ordinary People.

A N

AN ANSWER TO THE APPENDIX.

I Have thus dispatcht and fully Answered all what hath been brought in this Book, and some other Writings of other Men, to make good their Fancy, That *William* the First was no Conqueror, and shewn the idleness and vanity of it; from whence, passing by Mr. *Whitlock's* impertinent Speech upon the same Subject, brought by the Author as a (1.) Corroborating Testimony to explain and inforce what he hath said, as containing nothing material, besides the common Heads and Topicks others have used before him, I shall proceed to examine the *Appendix*.

(1.) *Pag.* 113.

Wherein he brings a piece of a (2.) Record out of the Roll of Inquisitions of Demeasns in *Dorsetshire*, in the Fourth year of *Henry* the Third, the words these; *Abbas de Middleton tenet in Capite de Domino Rege Manerium de Middleton, &c. ex Feoffamento Regis Æthelstani, & nullum servitium fecit nisi orationes.* The Abbat of *Middleton* holds of the King *in Capite*, the Maner of *Middleton*, *&c.* of the Feofment or Gift of King *Æthelstan*, and it hath performed no Service but Prayers. I did not examine this Record, nor shall I take further notice of it, until he shews it makes any way to his purpose, or doth in the least measure prove *William* no Conqueror.

(2.) *Pag.* 157.

This was made after the coming of the *Normans*, *Feofamentum* being a *Norman* word.

Next (3.) he cites a Charter by *Inspeximus*, to the Dean and Chapter of St. *Martins Le Grand* in *London*, by which King *William* confirmed the Possession of all Lands to that Church which it held in *Edward* the Confessors time; but this can no way serve him, for First, Church Lands were either not taken away, or if they were, *William* the Conqueror caused them to be restored to their several Churches, by Advice, and at the Request of *Lanfranc* Arch-Bishop of *Canterbury*, as hath been shewn before; And Secondly, The Charter of King *William* is Witnessed by the Earls *Edwin*, *Morcar*, and *Waltheof*, and bears date in the day of *Pentecost* 1068. in the (4.) Second year of his Reign, before he had totally vanquished the *English*, and Established himself in his new Acquests.

(3.) *Ibidem.*

(4.) *Ibidem*, p. 158.

His last and terrible Argument in this *Appendix* is a *Dilemma* grounded upon a (5.) Law made in the Fifteenth of *Richard* the Second, and drawn from dreadful Consequences to ensue, supposing King *William* obtained this Nation by Conquest; His words are; If this fond Notion of *Williams* absolute Conquest be true, then

(5.) *Ibidem*, p. 161.

then either the Arch Bishops, Bishops, Abbats, Priors, Earls, Barons, and Commons in Parliament 15 *Rich.* 2. knew it, or they did not. That they were ignorant of it, is not easily to be presumed, because they lived within ten of three hundred years ago, and no doubt but there were learned Men among them, that knew the ancient Customs of the Nation: and if they did, then were they guilty of the greatest madness and folly that ever was, when the Commons
A prayed that King, *En plein Parlement que nostre Seigneur le Roy soit & estoise aust franke en sa Regalie, liberte, & dignite Royale en son temps come ascuns de cest noble progenitors Roys d'Engl. furent en lour temps, nient contresteant ascun estatut ou ordinance fait devant ceste heures a contraire & mesment * en derogation de la libertée & franchisée de la corone, quil soit adnulle & de nul force; & puiz tous le Prelats & Seigneurs Temporels prierent in mesme le maniere; & sur ce*
B *nostre Seigneur le dit Roy mercia les dits Seigneurs & comunes de la grant Tendresse & affection quils avoient a la Salvation de son Honeur & de son Estate & a cause que lour dit prieres & requests lui semblerent honestes & resonables ils Sagrea & assenta pleinment a ycelles.*

* The most material Clause that makes out the intention of this Law, is here left out.

Now if (6.) any Man of but an ordinary understanding think that the Parliament intended by this Act to out themselves of all their ancient and legal Rights, and totally to give up their Estates and Fortunes to the Kings absolute disposition; Is it possible almost to
C be supposed, that they designed to confound and overthrow the whole Polity and Government of the Kingdom, and reduce all to the Arbitrary Will and Power of a new Conqueror, without a Conquest? What Man is there (that is not become servile to common opinion, and implicit suppositions) of so inventive a faculty, as to conjecture such grand absurdities? And yet these and many more are the direct Consequences of those that endeavour to maintain and justifie these pernicious Principles.

(6.) *Append.* p. 161.

D

For (7.) the Petition and Law is, That *Richard* the Second should be as free in his Regality, Liberty and Dignity Royal, as any of his noble Progenitors Kings of *England*; Then it naturally follows, that he was to be as free and absolute as *William* the Conqueror; and then what is the Conclusion and Result; but that the *English* were
E neither to have Estates nor Fortunes left them; and therefore it could be no great matter to them by what Law, Right, or Property Men held their Estates? And so farewell to Parliaments.

(7.) *Ibidem*, p. 162.

To this Argument from horrible Consequences, I Answer, First, in general, That where cogent Arguments are wanting, they are commonly supplied by words and pretences of very strange and dismal Consequences, if the Opinions of such as urge them be impugned, and shewn to have no foundation. But to suppose or urge
F an ill and strange Consequence may ensue upon matter of Fact done many hundred years since, and thence to conclude it was not done, or not so, is a strange and frivolous way of arguing and disproving it.

Secondly, I Answer, That our little Author according to his usual practise, in this and some other of his Writings, hath in quoting of this Law, omitted the most material Clause that would have discovered the design and meaning of it. The whole Law is thus.

(8) *Rot. Parl.* 15 *Ric* 2. *n.* 13.

En yceſt (8.) *Parlement le ſecond Jour de Decembre les comunes prierent overtement en plein Parlement que noſtre Seigneur le Roy ſoit & eſtoiſe auſſi franc en la Regalie libertée & Dignitée Royal en ſon temps come auſcuns de les nobles Progenitours jadys Roys Dengleterre, furent en lour temps,* **nient contreſteant aſcun Eſtatut** *ou* **ordinance** *fait devant ces heures a contraire, &* **meſment**, [*en temps le Roy Edward ſecond qi giſt a Glouceſtre, & que ſi aſcun Eſtatut feuſt fait en temps le dit Roy Edward*] *En* **Derogation** *de la* **Libertee** *&* **Franchiſe** *de la* **corone** *quil ſoit* **annulle** *& de null force.* And ſo to the end of this Law as before.

What is contained between theſe two marks [ ] is omitted in his Tranſcript of this Law.

In *Engliſh* thus. In this Parliament the ſecond day of *December*, the Commons pray openly in full Parliament, That our Lord the King may be, and continue as free in his Regality, Liberty, and Dignity Royal in his time, as any of his noble Progenitors heretofore Kings of *England* were in their time, notwithſtanding any Statute or Ordinance made before to the contrary, and eſpecially in the time of King *Edward* the Second, who was buried at *Glouceſter*; and if any Statute was made in the time of the ſaid King *Edward* in derogation of the Liberty and Franchiſe of the Crown, that it be void and of no force. And afterwards all the Prelats and Lords Temporal prayed in the ſame manner; and thereupon our ſaid Lord the King thanked the ſaid Lords and Commons, for the great tenderneſs and affection they had for the ſafety of his Honour and his Eſtate, and becauſe their Requeſts and Prayers ſeemed to him Honeſt and Reaſonable, he fully agreed and aſſented to them.

The Reaſon of making that Law.

This Law was made for the preſervation of the Dignity and Rights of the Crown, and for preventing incroachments and invaſions upon them; and was eſpecially founded upon ſome diſloyal Practices and unjuſt Uſurpations, which had been made upon the Liberty and Freedom of the Crown in the time of *Edward* the Second, (which our Author hath concealed) and to ſecure the Crown from the like for the future was the chief intendment of it.

A brief Account of ſome practices againſt King *Ed.* 2.

Edward the Second having uſed too great indulgence towards *Pieres Gaveſton*, and other Favourites, as many Biſhops and Barons then thought, who under pretence of the Honour of God, and Holy Church, the Honour of the King and Realm, made Confederations to remove Evil Counſellors, Reform the Court, and to force the King to let them name all Judges, the Chancellor, Treaſurer, and other great Officers in Court, *Gaſcoign*, *Ireland*, and *Scotland*. See (9.) Preamble to the Ordinances made by an extorted Commiſſion to certain Ordainers, *viz.* ſeven Biſhops, eight Earls, and ſix Barons, dated *March* 16. 30 *Ed.* 2. but not executed until the Fifth of his Reign. *Thomas* Duke of *Lancaſter* Couſin German to the King, one of theſe Commiſſioners and Ordainers, was always the Head of theſe Confederacies, (1.) who pretended great affection to the King, to the common profit of the Realm, and great care to ſee the Ordinances (in Number 41) maintained in all points, and many things amended in the Kings Houſhold, Court, and Realm.

(9.) *Rot. Parl.* 5 *Ed.* 2.

(1.) *Memoranda Parliamenti apud Lincoln.* 9 *Ed.* 2.

Theſe Ordinances were revoked, and the Confederations, and Tumultuous Barons, and their Actions condemned, as contrary to the

the Seigniory Royal, and State of the Crown, *&c.* in a Parliament (2.) holden at *York*, 15 *Edw.* 2. and notwithstanding this very year, the Earl of *Lancaster* was taken in open (3.) Rebellion, Tried by his Peers, and adjudged to be Hanged, Drawn, and Quartered, as also some others of his Confederacy; The Queen by her lewd practices with *Roger Mortimer*, and the Bishop of *Hereford*, by the assistance of many popular Bishops and Barons, first deposed, and then caused him to be Murthered.

(2.) Great Stat. Roll from *Hen.* 3. to 21 *Ed.* 3. *M.* 31.
(3.) *Walsing.* *f.* 116. *n.* 20, 30, 40.

Somewhat like these, and upon the same pretences and foundation, were the practices in the time of *Richard* the Second, in the Tenth of his Reign, (4.) or somewhat before; he was urged by the **Barons** and petitioned by the **Commons**, to appoint by Commission continual Counsellors to assist him in the good Government of the Realm, the good and due execution of the Laws, and in relief of his own Estate and the Estate of his People.

(4.) *Rot. Parl.* 10 *Ric.* 2. *n.* 18. *n.* 20. Continual Counsellors appointed to King *Rich.* 2. by Commission.

Some of the Heads of this Commission are to be found in the (5.) Parliament Roll of the next year, by which it appears, that twelve loyal and sage Lords were to be the Kings Council for one whole year, and to have full and sufficient power to make Ordinances for the Government of the King and the Realm, and whatsoever appertained to the King on this side, as well as beyond the Sea, and to repeal, repair, and redress whatsoever was ill done contrary to the State, Honour, and Profit of the King, or of the Realm, and to do divers other things necessary for the profit of the King and Realm; and no Person to give the King Counsel, or move him any manner of ways contrary to the said Ordinance, and Statute, or Commission. If he did, the first time he was to lose all his Goods and Chattels, and the second, Life and Member.

(5.) *Rot. Parl.* 11 *Rich.* 2. Part 2. Article 17.
The Heads of that Commission.

Before the (6.) end of this Parliament in the Tenth year of his Reign, in which this Ordinance or Commission was made, the King made protestation with his own Mouth, That for any thing done in the said Parliament, he would not that prejudice should come to himself, nor to his Crown, nor to his Prerogative, and that the Liberties of his Crown should be safe, and kept.

(6.) *Rot. Parl.* 10 *Rich.* 2. *n.* 32.

In the Eleventh year the King kept his Christmas in the Tower of *London*, the Lords (7.) appear in the Fields, Suburbs, and before the Tower with 40000 Men in Arms; they urge the King to come, and Treat with them at *Westminster*, where after a little Discourse, the Lords told the King, that for his Honour and profit of the Kingdom, Traitors, Whisperers, Flatterers, Evil Doers, Detractors, and Unprofitable Persons ought to be banished from his Court and Company, and others substituted in their places, who knew how to do it, and would more honourably and faithfully serve him; which the King having with much sorrow granted, they drave away and expelled from the Court (8.) fourteen Bishops, Lords, and Knights, and three Ladies as unprofitable Persons; and caused to be Imprisoned and Arrested eight Knights, and four Clerks, whereof the Dean of the Kings Chappel was one.

(7.) *Walsingham, f.* 332. *n.* 50. and 333. *lin.* 2. *n.* 30, 40, 50.
The Lords Rebell.

(8.) *Ibidem, n.* 50. and *f.* 334. *n.* 10.

In the Morrow after the Purification, there was a Parliament holden at *Westminster*, to which the (9.) Lords came with their Army, and in which (1.) five Lords Appellants, the Duke of *Glouceſter* the Kings Uncle, and Conſtable of *England*, *Henry* Earl of *Derby* eldeſt Son to *John* Duke of *Lancaſter* then in *Spain*, and afterwards King *Henry* the Fourth, *Richard* Earl of *Arundel*, *Thomas* Earl of *Warwick*, and *Thomas Earl Marſhall*, made open proteſtation, That what they did touching their Appeal and Suit in that Parliament, and all the Men and People being in their Company, (or of their Retinue or Aſſembly) and with them in all that Affair, was done principally to the Honour of God, and in Aid and Salvation of the Eſtate of the Lord the King, and of all his Realm, and for the ſafety of their Lives. A

(9.) *Ibidem.*

(1.) *Rot. Parl.* 11 *Rich.* 2. *n.* 8.

The Lords Appellants.

Their Pretences.

This (2.) Parliament was called on purpoſe for the Trials of ſeveral Perſons accuſed by the Lords, as Traytors and Enemies to the King and Realm, amongſt whom were (3.) *Robert Treſilian*, *Robert Belknap*, *John Cary*, *John Holt*, *R. Fulthorp*, and *William Burgh*, the Kings Juſtices, and *John de Loketon* Serjant at Law, impeached for Anſwering ſeveral Queſtions and Demands made unto them by the King, amongſt which theſe were the chief relating to this preſent matter; B

(2.) *Walſingh. f.* 331. *n.* 20.

(3.) *Rot. Parl.* 11 *Rich.* 2. Part. 2. Article 25. Several Perſons accuſed as Traytors by the Lords Appellants in Parliament.

Firſt, It was (4.) demanded, Whether the new Statute, Ordinance, and Commiſſion made in the (5.) laſt Parliament at *Weſtminſter*, did derogate from the Kings Royalty and Prerogative? They unanimouſly anſwer, it did, eſpecially for that they were contrary to the Kings Will. C

(4.) *Ibidem.*

(5.) Which was holden *Octob.* 1. 10 *Ric* 2. The Articles exhibited againſt them.

Secondly, It was (6.) demanded, How they were to be puniſhed, who procured thoſe things aforeſaid to be done? They unanimouſly anſwer, with death, unleſs the King would ſhew them favour. D

(6.) *Ibidem.*

Thirdly, Alſo (7.) it was demanded, How they were to be puniſhed, that excited the King to aſſent to that Statute, Ordinance, and Commiſſion? They unanimouſly anſwer, as to the laſt Queſtion.

(7.) *Ibidem.*

Fourthly, They were (8.) demanded, How they were to be puniſhed, that ſtreightned the King, or forced him to conſent to the making of them? They unanimouſly anſwer, as **Traytors.** Alſo, How they were to be puniſhed, that hindred the King from exerciſing thoſe things which belonged to his Regality, and Prerogative? They unanimouſly anſwer, as **Traytors.** E

(8.) *Ibidem.*

Fifthly, Alſo it was (9.) demanded, How he was to be puniſhed, who moved in the Parliament, that the Statute might be ſent for, by which *Edward* the Son of *Edward*, Great Grandfather to the then King, was adjudged in Parliament; by the Inſpection of which Statute, (1.) the new Statute, Ordinance, and Commiſſion aforeſaid, were conceived and framed in Parliament? They anſwer unanimouſly, that as well he that ſo moved, as the other, that by pretext of the motion, brought that Statute to the Parliament, were worthily to be puniſhed as **Traytors.** F

(9.) *Ibidem.*

(1.) *Ibidem.*

There

There are likewise two Articles in the Impeachment of *Alexander* Arch-Bishop of *York*, *Robert Vere* Duke of *Ireland*, *Michael de la Poole* Earl of *Suffolk*, *Robert Tresilian*, and *Nicholas Brember* Knights, which have relation to this present matter, and will serve to illustrate it.

A That having (2.) set the Kings heart and mind against the Lords, and others, that in the last Parliament assented to make the aforesaid Commission and Ordinance. They designed to cause to be arrested, and falsly to indite in *London* and *Middlesex* the Lords Appellants, and certain Commons for Conspiracy and Confederacy, in making and procuring to be made, and causing the King to consent against his Will, to the Statute and Commission contrary to his Regality, and in desherison of him, and derogation to his Crown.

(2.) *Ibidem*, Art. 26.

B That having (3.) Traiterously informed the King that the Statute, Ordinance, and Commission were made in derogation of his Regality and Prerogative, they strongly possessed him, that all those which made the said Statute, Ordinance, and Commission had a purpose to degrade and depose him, and that they would not give over that purpose until they had perfected it, for which cause the King held them as Enemies and Traytors. There were other Articles against them, but not directly relating to this matter, they are C reserved until I come to the Reign of *Richard* the Second, which is their proper place.

(3.) *Ibidem*, Art. 27.

They not only deposed, but caused him to Murthered afterwards.

The Grounds, Reason, and necessity of this Law clearly appearing by this Parallel, and the Law it self; its beyond the imagination of all but Malicious Men, and such as would allow the Government no power to support it self, how those monstrous Inconveniencies and Consequences should result from it, with which our Writer D hath endeavoured to bug-bear and affright unwary and unstable People, and gull them into a fearful Credulity of Impossibilities, by his Arts of Concealing, and partial Citation; If he had looked a little forward into the Laws made in this Parliament, the possibility of such dreadful Consequences and Inconveniencies arising from this Law, could never have entred into his thoughts: for the Commons in the same Parliament supplicated (4.) the King, *Que toutes les bones Estatuts, & Ordeinances avant ces heures faitz, nient* E *Repellez soient fermement tenuz & gardez & duement Executz in toutz lour pointz,* That all the good Statutes made before that time, and not Repealed, might be firmly holden and kept, and duely executed in all their points. To which Petition he Answered in the usual words that made a Law, *Le Roi le Voet*, The King Wills it; who certainly knew when he said so, that his Prerogative how great soever it might be then, was consistent with those Laws, and the Commons likewise understood those Statutes were consistent with his F Prerogative, the Rights and Liberty of the Crown, for the preservation whereof they but a little before had made such a generous Petition and Request to him.

(4.) *Rot. Parl.* 15 *Rich.* 2. *n.* 25.

Having taken in pieces, fully examined, directly (as I hope) answered, and shewn the easiness, vanity, and delusion of all the Arguments in this Book, and the Appendix to it, and of many others frequently

(6.) *Append. n.* 10.

Teſtimonies to prove that *William* was a Conqueror.

frequently alſo found in other Authors, brought to prove the (5.) abſurdity and falſity of King *Williams* abſolute Conqueſt; Beſides the unanſwerable Arguments drawn from (6.) *Domeſday-Book* to prove it, and others both here and in the Preface to the *Norman* Story mentioned, urged, and explained, over and above the three great Authorities of **Ingulph** Secretary to King *William*, **Eadmer** a Monk of *Canterbury* at that time, and **Gervaſe** of *Tilbury*, who was an Officer in the Exchequer in the time of King *Henry* the Second, I will add Teſtimonies and Authorities of our beſt Hiſtorians, who were contemporary with, or lived not long after them, for the ſatisfaction of thoſe who have been deluded by ſuch, as in their Writings have followed their own Fancies, and never took care or pains truly to underſtand the ſenſe and meaning of our ancient Writers. A

Gul. Pictavienſis. (7.) *F.* 206. *A.*

See more of this R lation in the *Gloſſary* in the word *Electus.*

I will begin with *Gulielmus Pictavienſis*, who ſpeaking of King *Williams* Coronation, adds, (7.) *Cujus liberi atque nepotes juſta ſucceſſione, præſidebunt Anglicæ terræ, quam & hæreditaria Delegatione Sacramentis Anglorum firmata, &* **Jure Belli** *ipſe poſſedit.* Whoſe Children, and Grandchildren, or Off-ſpring ſhall govern *England* by a juſt Succeſſion, which he poſſeſſed by an Hereditary Bequeſt or Delegation, confirmed by the Oaths of the *Engliſh*, and by the Rights of War. B

Ordericus Vitalis. (8.) *F.* 251. *A.*

(9.) *Ibid. D.*

The next ſhall be the Teſtimony of *Ordericus Vitalis*, who tells us how *William* circumvented the two great (8.) Earls of *Mercia*, and that after *Edwin* was ſlain, and *Morcar* impriſoned, then *William* began to ſhew himſelf, and gave to his Aſſiſtants the beſt and moſt noted Countries of *England*, and of the loweſt *Norman* Clients, or very mean People, he made very rich Colonels and Captains. (9.) *Rex Gulielmus dejectis Merciorum maximis Conſulibus, Edvino ſcilicet interfecto, & Morcaro in vinculis Conſtricto, adjutoribus ſuis inclytas Angliæ Regiones Diſtribuit: Et ex infimis Normanorum Clientibus, Tribunos & Centuriones ditiſſimos erexit:* and there proceeds to name many that had great Eſtates given them here in *England*, *fol.* 522, 523. C D

(1.) *Ibidem, f.* 666. *A.*

In a Conference or Conteſt between ſuch Noblemen as had Eſtates both in *England* and *Normandy*, whether it was expedient to permit theſe Nations to be two diſtinct Governments after the death of *William*, we find this Paſſage noted by this Author; (1.) *Nos cum Gulielmo duce pontem tranſfretavimus, & Saxones Anglos, viribus armiſque noſtris, Proſtravimus, & fundos eorum cum omnibus divitiis, non ſine magno cruoris noſtri diſcrimine obtinuimus.* We paſſed the Sea with Duke *William*, and with our Force and Arms overthrew the *Saxon-Engliſh*, and obtained their Lands and all their Riches not without great danger of our Blood or Lives. E

(2.) *Ibidem, f.* 853. *A.*

The ſame Author Relates, That (2) *poſtquam Normanica virtus Angliam Edomuit, eamque Gulielmus Rex ſuis legibus Commode ſubegit,* **Fulcardum** *Sancti Bertini Sithienſis Monachum Torneiæ præpoſuit.* After the *Norman* Force overcame *England*, and King *William* aptly put it under, or governed it by his Laws, he made *Fulcard* a Monk of St. *Omars*, Abbat of *Thorney*. F

After

After *Ordericus* comes *William* of *Malmsbury*, and affirms, That *England* was made an Habitation of Foreigners, and Governed by Strangers, (meaning the *Normans* and such as came with them) and that at the time he wrote, there was no Natural *English-Man* a Duke, *i. e.* a great or Leading Man, a Bishop or an Abbat, all sorts of Comelings or Outlandish-Men devoured the Riches and Bowels of *England*: nor was there any hopes that this Misery would
A have an end. (3.) *Anglia facta est exterorum habitatio, & alienigenarum Dominatio; Nullus hodie* **Anglus**, *vel* **Dux**, *vel* **Pontifex**, *vel* **Abbas. Adhuc** *quique divitias, & Viscera Corrodunt Anglæ, nec ulla spes finiendæ miseriæ.* And then proceeds with the *Norman* Story, where speaking of the Battle of *Hastings*, he says, That was the fatal day to the *English*, the lamentable destruction of his sweet Country, by its receiving new Lords and Masters. (4.) *Illa fuit dies* **fatalis** *Anglis,* **funestum exitium** *Dulcis Patriæ, pro*
B **Dominorum Commutatione.** And further speaking of the same Battle, and the Vices and Debauchery of the *English*, says, That they rather rashly and with headlong fury, than Military skill, joyned Battle with *William*, whence it was, that by one Conflict, and that an easie one, they cast themselves and Country into Slavery. (5.) *Hinc factum est, ut magis* **temeritate** *&* **furore** *præcipiti, quam* **Scientia** *Militari, Willielmo Congressi, uno* **prælio, & ipso**
C **pertæsi, servituti** *se, patriamque pessundederint.*

To these we joyn *Henry* Arch-Deacon of *Huntington*, (6.) *Millesimo, sexagesimo sexto, Anno Gratiæ, perfecit Dominator Dominus,*
D *de Gente Anglorum quod diu Cogitaverat.* **Genti** *namque Normannorum asperæ & Callidæ tradidit eos ad exterminandum.* In the year of Grace 1066. the Lord and Ruler of Nations perfected what he had long intended to the *English*, for he delivered or gave them over to the rough and subtle Nation of the *Normans* to be destroyed. And in another place, *Anno vigesimo primo* (8.) *Regni Willielmi Regis, cum jam Domini justam voluntatem super Anglorum gentem*
E *Normanni Complessent: nec jam vix aliquis* **Princeps** *de* **Progenie** *Anglorum esset in Anglia, sed omnes ad* **servitutem**, *& ad Mærorem redacti essent, ita ut* **Anglicum** *vocari esset opprobrio: Hujus author Vindictæ Gulielmus, vitam terminavit. In Anglia his temporibus, Thelonea injusta & pessimæ Consuetudines pullulaverunt.* In the Twenty first year of the Reign of King *William*, when the *Nor-*
E *mans* had fulfilled the just Will of the Lord upon the *English*, nor was there then any great Person of the Stock of the *English* in *England*, but all were reduced to servitude and sorrow, so as it was opprobrious to be called an *English-Man*, *William* the Author of this Punishment or Judgment died. In these times unjust Tolls, and very evil Exactions sprang up. In the beginning of the Story of
F *William Rufus*, there may be seen this passage, (9.) *Declaratum Constat, quo modo Dominus salutem, & honorem genti Anglorum pro meritis abstulerit, & jam populum non esse jusserit.* It hath been declared, how the Lord according to their deserts took away the Weal and Honour of the *English* Nation, and at this present hath Commanded they should not be a People.

To these we add *John Brompton*, (1.) *Willielmus Terras Anglorum*, **Magnatibus** *ac* **Militibus**, *& aliis* **hominibus** *suis Franciæ &*

William of *Malmsbury.*

(3.) *Malmsb. f.* 52. *a. n.* 40.

(4.) *Ibidem, f.* 57. *a. n.* 30.

(5.) *Ibidem, f.* 6. *n.* 10.

(6.) F. 210. *b. n.* 10.

Henry Arch-Deacon of *Huntington.*

(8.) *Ibidem, f.* 212. *a. n.* 30, 40.

(9.) *Ibidem, f.* 213. *n.* 40.

(1.) *Chron. Joh. Brompton, col.* 963. *n.* 10.

& Normanniæ, Qui ſecum in Conqueſtu ſuo extiterant, donavit; King *William* gave to great Men and Knights, or Soldiers, and other his Men of *France* and *Normandy*, the Lands of the *Engliſh*; and then reckons up about 250 to whom he had given Eſtates. (2.) *Deus ad* **Exterminium** *Anglorum præordinaverat ferocem populum, Normannorum, quadam prærogativâ ſævitiæ ſingularis præminentem, &c.* God for the deſtruction of the *Engliſh*, pre-ordained the fierce People of the *Normans* eminent for their ſingular Cruelty, *&c.* where the Reader may ſee what hardſhip the *Engliſh* endured under them. A

(2.) *Ibidem, col.* 981. *n.* 30.

Next we produce *Gervaſe* of *Canterbury*, (3.) *Regnante Rege Willielmo primo Qui* **armis** *Angliam adquiſivit, Cæpit Eccleſia Dignitates ſuas dediſcere, nam idem Willielmus Regno* **ſublimatus**, *tam Eccleſiaſtica jura, quam ſecularia, ſibi uſurpavit, Sacerdotes, & Eccleſias oppreſſit, Epiſcopos depoſuit, & alios ſuppoſuit*; In the Reign of King *William* the Firſt, who obtained *England* by Arms, the Church began to loſe her Dignities, for the ſame King being exalted to the Kingdom, he uſed both Eccleſiaſtick, and Secular Rights or Laws as he pleaſed. Churches and Prieſts he oppreſſed, Biſhops he depoſed, and ſubſtituted and appointed others whom he would. In another place of the ſame Author, *Dux* (4.) *Willielmus poſtmodum cum* **armis** *Regnum Anglorum* **obtinuiſſet**, *ex aſſenſu Papæ Alexandri Lanfrancum vocavit in Angliam*; Duke *William* after he had with Arms acquired the Kingdom of the *Engliſh*, by the aſſent of Pope *Alexander* called *Lanfranc* into *England*. B C

(3.) *Col.* 1327. *lin.* 3.

Gervaſe of Canterbury.

(4.) *Col.* 1652. *n.* 60.

From theſe we proceed to *Matthew Paris*, whoſe words are theſe, (5.) *Dux Normanniæ W. Civitatibus Diſpoſitis, & Caſtellis, propriiſque miniſtris impoſitis, ad Normanniam cum obſidibus Angliæ & Theſauris innumeris migravit. Quibus incarceratis & ſub ſalva Cuſtodia Deputatis, ad Angliam denuo properavit, ut* **Comilitonibus Normannis**, *qui in Bello Haſtingenſi* **Patriam** *ſecum* **Subjugaberant**, **Terras** *Anglorum &* **Poſſeſſiones**, *ipſis* **Expulſis**, *manu diſtribueret affluenti, &* **Modicum** *illud Quod eis remaneret, ſub* **Jugo** *poneret perpetuæ* **ſervitutis**, *i. e. William* Duke of *Normandy* having put the Cities and Caſtles into a poſture of defence, and placed his own Soldiers in them, went thither with his *Engliſh* Hoſtages, and innumerable Treaſure, who when he had Impriſoned, and put into ſafe Cuſtody, he preſently haſtned into *England*, that he might with a plentiful hand diſtribute the Lands of the *Engliſh*, who were expelled from, or violently thruſt out of them, to his Fellow Soldiers the *Normans*, which together with himſelf in the Battle of *Haſtings*, had ſubdued the Country; and that little which was left, he put under the Yoke of perpetual Servitude. D E

(5.) *Fol.* 5. *n.* 10. *Mat. Paris.*

In another place, (6.) *Rex Willielmus Epiſcopatus & Abbatias omnes quæ* **Baronias** *tenebant, & eatenus ab omni ſervitute ſæculari libertatem habuerant, ſub ſervitute Statuit militari; inrotulans ſingulos Epiſcopatus, & Abbatias pro voluntate ſua, qnot* **Milites** *ſibi &* **Succeſſoribus** *ſuis, hoſtilitatis tempore, voluit a ſingulis exhiberi.* King *William* brought under Military Service, the Biſhopricks, and all the Abbies which held Baronies, (that is, as much Land, upon which a Barony might be erected) and until that time had them free from all Secular Service or Servitude, Enrolling every Biſhoprick and F

(6.) *F.* 7. *lin.* 3.

and Abby according to his pleasure, how many Knights or Horsemen they should find for him and his Successors in time of Hostility.

And in a third place speaking of the Promotion of *Paul* Abbat of St. *Albans*, he says, *Paulus* (7.) *Natione Neuster, promotus in Abatem Anno Gratiæ* 1077. *quarto Kalendarum Julii, tempore Regis Willielmi, Regis majoris, scilicet Conquestoris; Anno Regni ipsius undecimo.* A *Hic primus Abbas hujus Ecclesiæ fuit,* **postquam Anglia Normanis penitus fuit subjugata.** *Paul* by Nation a *Norman*, made in the year of Grace 1077. on the Twenty eighth of *June*, in the time of King *William*, the great King, that is to say, the Conqueror, in the Eleventh year of his Reign. This was the first Abbat of this Church after *England* was wholly subdued by the *Normans*.

(7.) *In vitis Abbat. f.* 49. *n.* 30.

Matthew of *Westminster* gives us the very same Account of the B Actions and Behaviour of King *William* the Conqueror, and almost in the (8.) same words with the first Citation of *Mat. Paris*, wherefore I forbear to repeat them. He only adds, That (9.) *De Rege factus Tyrannus, cum se viderat in sublimi Elevatum, & in fastu Regni Confirmatum, in alium virum est subito Transmutatus, Nobiles Terræ quos avitus sanguis ab antiquo Sublimaverat, pro dolor, conculcando.* Of a King being made a Tyrant, when he saw he was confirmed in the Kingdom, suddenly he was changed into another Man, C trampling under foot the ancient Nobles of the Land, who had been exalted by the Blood of their Ancestors.

(8.) *F.* 225. *n.* 40.
(9.) *Ibidem. Math.* of *Westminster.*

Chronologia Rothomagensis, Printed at the end of *Gabriel du Moulins* History of the Conquests of the *Normans*, acquaints us with the same things. (1.) *Willielmus Dux Normannorum trajecta in Angliam Classe, Haraldum interficit occupatorem Regni, & felicibus auspiciis Regnum Conquirit, Hic ibi* **novos** *Creat* **Magistratus,** *&* **antiquam** D *vivendi* **rationem** *immutat, Leges quas in hunc diem Angli observant,* **idiomate Normanico** *promulgavit, Regnumque quod longa rerum serie, adhuc durat, inchoat, William* Duke of *Normans*, passing with a Fleet into *England*, killed *Harold* the Usurper of the Kingdom, and by fortunate success Conquered it. There he created new Magistrates, and changed the ancient way of Living; The Laws which at this day the *English* observe, he published in the *Norman* Language, and began that * Government which hath a long time con- E tinued.

(1.) *Anno Domini* 1066. The Chronology of *Roven.*

* *Regnum* in this place most properly signifieth Government, as it frequently doth in many Authors.

The Register of the (2.) Honour of *Richmond* agrees with the preceeding Testimonies. *Willielmus Bastardus postquam Coronatus fuit in Regem Angliæ per* **Conquestum**; *Auxilio Matildis Reginæ suæ, dedit Alano Fergant Comiti Britanniæ,* **Honorem & Comitatum** *Comitis Edwini in Eborakshire, Qui modo vocatur Richmundshire, & qui ad tunc extitit Geldable, & postea Regum privilegio in Libertatem est* F *mutatus.*

(2.) *In Bibl. Cotton. sub Effig. Faustin. B.* 7. *f.* 72. *Selden's* Preface to ten Authors, *f.* 36, 37.

Hic (3.) *Alanus primo incepit facere Castrum & munitionem, juxta Manerium suum Capitale de Gilling pro* **tuitione suorum** *contra* **infestationem Anglorum** *tunc ubique* **Exhereditatorum**, *& similiter &* **Danorum**, *& nominavit dictum Castrum Richmont, suo idiomate Gallico quod sonat Latinè Divitem Montem*, i. e. *William* the Bastard

(3.) *Ibidem.*

after he was Crowned King of *England* by Conqueſt, at the requeſt of *Maud* his Queen, gave to *Alan Fergant* Earl of *Britain* the Honour and Earldom of Earl *Edwin* in *Yorkſhire*, which is now called *Richmondſhire*, and which was then Geldable, and afterwards by the priviledge of Kings was changed into a Liberty.

This *Alan* firſt began to build a Caſtle and Fortreſs by his capital Maner of *Gilling*, for the defence of his People, againſt the annoyance of the *Engliſh* every where diſhinherited, or diſpoſſeſſed of their Eſtates, as alſo of the *Danes*, and named the ſaid Caſtle *Richmont*, which in his *French* Language ſignifies Rich Hill or Mountain. A

Henry de Knighton.

(4.) *Col.* 2354. *n.* 40.

I will conclude theſe Authorities of the ancient Hiſtorians with the Teſtimony of *Henry de Knighton*, who ſpeaking of the death of *William* the Firſt, delivers himſelf in theſe words, (4.) *Mortuo Willielmo vix erat in Anglia,* **princeps** *Anglicus ; imo* **Anglis** *in* **Servitutem redactis,** *proboſum fuit vocari Anglicus, Deus enim ad* **Exterminium** *Anglorum, præordinaverat populum ferocem, Quorum natura eſt, cum hoſtes depreſſerint, ipſi ſe deprimant, i. e.* When *William* died there was ſcarce in *England* any great or powerful *Engliſhman*; yea, the *Engliſh* being brought into Servitude, it was a Diſgrace to be called an *Engliſhman*; for God had pre-ordained a fierce People for the deſtruction of the *Engliſh*, whoſe nature is ſuch, that when they have deſtroyed their Enemies, they then deſtroy themſelves. This is clear from the Murthers, Rapines, Burnings, and Hoſtilities committed anciently in *Normandy* by the *Normans*, in their Diſputes one upon another, and by our Barons Wars. B C

(5.) *Gloſſar.* Mr. *Lambard.*

As to Modern Authorities I will mention only two, the firſt is Mr. *Lambards*, in the Explication of the word (5.) Hereot. *Hereotum armamenta ſive Belli inſtrumenta ſignificat, & Conſtat ſane primis temporibus, nomine apparatus Bellici, Dominis Tributum Conjectura eſt igitur, Normannos* **Victores, Anglis victis,** *omnique* **ſpoliatis** *armatura Hereotum remiſiſſe, atque a miſeris pecuniam Exegiſſe, i. e.* The word Hereot ſignifies Arms, or Inſtruments of War, and 'tis evident that in old times it was given by Tenents to their Lords, as Warlike Furniture ; Therefore it may be gueſſed that the Conquering *Normans* remitted the Hereot to the Conquered *Engliſh*, when they were totally diſarmed, and exacted of thoſe miſerable People Money or Cattle in lieu of it. D E

(6.) *Britan. f.* 109. Mr. *Camden.*

The ſecond is Mr. *Camdens*, who in this manner ſpeaks his mind concerning this matter ; (6.) **Victor** *Gulielmus, in* **Victoria** *quaſi Trophæum,* **antiquatis** *maximam partem Anglorum* **legibus,** *Normanniæ* **Conſuetudines** *induxit, Cauſaſque Gallicè diſputari Juſſit ;* **Excluſis hereditate abita Anglis, agros & prædia, Militibus ſuis aſſignabit,** *ita tamen ut Dominium directum ſibi reſervaret, obſequiumque Clientelari Jure, ſibi & ſucceſſoribus Devinceret, id eſt, ut omnes feudo & fide tenerent, & Nulli præter Regem eſſent veri Domini, ſed potius fiduciarii Domini, & poſſeſſores.* *William* the Conqueror, as a Token of his Victory, laid aſide the greateſt part of the *Engliſh* Laws, and brought in the Cuſtoms of *Normandy*, and Commanded Pleadings to be in *French*. The *Engliſh* being thruſt out of their Inheritance, F

tance, or the Possessions of their Ancestors, he assigned their Lands and Maners to his Soldiers; yet so as he reserved the direct Dominion or Propriety to himself, and secured their Service to him and his Successors by Homage: that is, that they should all hold their Estates according to the Feudal Law, and that none besides the King should be true Lords, but rather Fiduciary Lords (that is, Trustees as it were, and Lords but for a time) and Possessors.

What hath been said concerning this Controversie in the Preface to the *Norman* Story, and in this Answer, with these Authorities, were enough, a Man would think, to put to silence, and convince the most Pertinacious Gainsayer imaginable; but such is the monstrous Industry, the matchless Confidence of Men of this Temper and Party, that for driving on the old Design, and amusing the People and Rabble with such a strange Notion of Liberty; That they are to be under no Law or Government; That the Prince hath no Power, but what they give him; That they are all Law-Makers, and to meet in Parliament, *omnes de Regno*, all Men of the Kingdom; That they will proceed to Scribble for the good old Cause, (for that must be revived if their Notion of Liberty succeeds) though against their Knowledge, and perhaps Judgment, under pretence of Truth, serving the King and Government, asserting the Rights of the People, defending the Laws, *&c.*

I shall give a Specimen of our Authors Confidence in the following Parallel, First rehearsing his own words near the Close of his Discourse. (7.) If any Man can truly and impartially either shew, first, that I have misquoted the Authors and Books I cite: and that such Passages do not occur in the places quoted; or secondly, if they do occur, that I have mistook their meaning, as to the purposes for which they are produced; I say, if any Man can, and will ingeniously shew me either of these, I shall be so far from not confessing my fault, or declaring how I was misled into it, that I shall have a hearty value for any such friendly Admonition, and receive it with all the grateful acknowledgment as becomes me. These are his very words, the parallel follows.

(7.) Appendix to *Argument. Antinorm. p.* 164.

Argumentum Antinormanicum, *p.* 8, 9. out of *Verstegan*, dedicated to King *James*, *p.* 173.

COnvening his Parliament, or Assembly of three Estates, which consisted of the Clergy, Noblity, and Commons; The Nobility in fine promised to serve him, and the Clergy and People to aid him with Money according to their several abilities; and such Offers as they made, were forthwith set down in Writing by a Secretary there present.

Verstegan, Printed at *London* 1634. and dedicated to King *James*, *pag.* 173.

THe Duke so much prevailed in his Assemblies of the three Estates, which consisted of the Clergy, Nobility, and Commons, that in fine the Nobility promised to serve him, and the Clergy and People to aid him with Money according to their several abilities; and such Offers as they made, were forthwith set down in Writing by a Secretary there present. *Odo* Bishop

This amongst other things is brought to shew, with what Supplies Duke *William* prepared for *England*, and that his Quarrel was more Personal than National, and that he came only to Conquer *Harold*, *p.* 9.

of *Bayeux* accorded to furnish him with forty Ships, the Bishop of *Mains* with thirty, and others according to their benevolent Minds. Then began he to desire Aid of the Princes his Neighbours, as of the Earl of *Anjou*, *Poictou*, *du Main*, *Ponthieu*, *Boulongue*, and others, promising to give Land unto every of them in *England*, if he Conquered it. See further in this Answer, *fol.* 246. Speak Sir, Is this Passage fairly cited? 'Tis true, what you quote is there to be found: but reflect upon your partiality; Is the meaning of it according to the purpose for which you produced it? surely quite contrary, had it not been for your art of concealing.

Argument. Antinorm. p. 13. out of *Malmsbury*, but hath concealed the Author.

Malmsbury, f. 154. *b. n.* 10.

Quod æquo Jure Anglos & Francos Tractaret. This is produced to prove, that there was one extraordinarily necessary Article added to the Oath of King *William*, more than was in the Oath of the *Saxon* Kings; which Oath he intends, and supposeth all Men should believe, as well as he himself seems to do; That King *William* Religiously observed and kept it; Or he brings it to no purpose, to prove that he was no Conqueror.

Exhortatus Aldredus Consecrationem egit, exacto prius coram omni populo, jure jurando, Quod se modeste erga subjectos ageret, & æquo Jure Anglos, quo Francos, tractaret; itaque illum quamdiu erga suos temperiem habuerit, dilexit ut prolem, veneratus est ut Regem; sed cum importabilis Tributi pensum a provincialibus exigeret; Convenit eum per legatos Antistes, Quos ægrè admissos, cum turbulento Responso abegisset, non moratus ille, maledictionis telum, in illum, & omnem ejus vibrabat progeniem præfatus, posse se maledictionem dare merito, Qui Benedictionem dedisset immerito, Quod cum relatum esset Regi, amicorum admonitione delinitus, misit, qui Episcopum exoraret. Veruntamen prævenerat nuntios, mors antistitis, Qui ex ægritudine animi (ut plerunque fit) Contracto morbo decubuerat, & obierat. That is, *Aldred* (Arch-Bishop of *York*) being requested, performed the Consecration or Coronation of King *William*, having first exacted an Oath before all the People, That he would behave himself moderately toward his Subjects, *and that he would treat the* English *with the same equal Right he did the* French. Therefore so long as he carried himself with Temper towards those under his Jurisdiction, *he Loved him as his Child, and Honoured him as his King*; but when he exacted from them an importable Tax, he sent Messengers to him, which with difficulty he admitted, and sent them back with a rough answer; forthwith the *Arch-Bishop Cursed him and all his Progeny*; saying, he might *worthily Curse*, where he had *unworthily Blessed*. Which being told to the King, he was perswaded by his Friends to send and reconcile himself to him; but he died before the Messengers came to him, of Grief (as it often happens.)

Say,

Say, Sir, Have you cited the Author from whom you had this Passage? Is the meaning of this whole Story, whereof the words by you produced are a Scrap, according to the purpose for which you produced them? If you had dealt fairly and impartially in this Citation, would it not have destroyed your whole Argument against the Conquest, from the Coronation Oath? And was not this the reason you concealed the Author, and the Words, and Story, both preceding and following those you cited?

Argumentum Antinormanicum, pag. 22.

AND *fœdus pepigit*, he made a Solemn Covenant with the *English* to observe and keep those Laws, which were *bonæ & approbatæ & antiquæ Leges Regni*. He hath concealed his Author whence he had this Scrap *fœdus pepigit*, for the words *bonæ & approbatæ & antiquæ Leges Regni* belong not to it. They are to be found in *Mat. Paris*, in the Life of *Frederic* Abbat of St. *Albans*, *f.* 48. *n.* 30, 40. without the words *fœdus pepigit* preceding them.

Floren. Wigorn. f. 634, 635. *Sim. Dunelm. Col.* 195. *n.* 30. *Hoved. f.* 258. *a lin.* 1. *&c.* They all have the same words.

COmes Gulielmus, *Suthregiam Middle-Saxoniam, Hartfordensem provinciam, devastabat, & villas cremare, homines interficere non cessabat donec ad villam Beorcham veniret, ubi Adeldredus Archiepiscopus, Wulstanus Wigorniæ Episcopus, Clito Edgarus, Comites Edwinus & Morcarus, & de Lundonia Quique Nobiles, cum multis aliis ad eum venerunt, & datis obsidibus, illi deditionem fecerunt, fidelitatemque Juraverunt, cum quibus, & ipse* **fœdus pepigit**; *& nihilo minus exercitus suo villas cremare, & Rapinas agere permisit. Appropinquante igitur, Dominicæ nativitatis festivitate,* **cum omni Exercitu** *Londoniam, ut ibi in* **Regem Sublimaretur**, *adiit.* Earl *William* wasted *Surry*, *Middlesex*, and *Hartfordshire*, burnt Towns, and killed Men, until he came to the Town of *Beorcham*; where *Aldred* the Arch-Bishop, *Wulstan* Bishop of *Worcester*, and Prince *Edgar*, the Earls *Edwin* and *Morcar*, and all the Nobility from *London*, with many others came unto him, and having given Hostages, submitted and Sware Fealty to him; with whom he made a Truce or Agreement. And nevertheless he permitted his Army to burn Towns, and commit Rapine; and *Christmas* approaching, he went to *London* with all his Army, that he there might be made King. I find not the words *fœdus pepigit* in any other Story but this, where there is no Covenant to observe the good, approved, and ancient Laws of the Kingdom. Why did you conceal the Authors of these words? Was it not, because if this Story had been looked into, they could not possibly have been applied or construed according to the purposes for which you produced them? Is not here the Submission of the People, Fealty Sworn, Hostages given, Towns burnt, Rapine committed? Was he not made King by the Influence and Power of his *Norman* Army, which none could resist? Are not these Marks of a Conqueror?

Argumen-

Argmmentum Antinorm. p. 24. out of *Seldens* Notes upon *Eadmer*, *f.* 173.

Hoveden, *f.* 342. *b. n.* 30, 40, 50, *f.* 343. *a. n.* 10.

CEs *ſont les leis & les Cuſtumes que li Reis William grantut á tut le peuple de Engleterre, apres le* **Conqueſt** *de la terre, Ice les Meiſmes, que le Reis Edward ſon Couſin tint devant luy.* Theſe are the Laws and Cuſtoms which *William* the King granted to the whole People of *England*, after the Conqueſt of *England*; Theſe are thoſe which the King *Edward* his Couſin held before him. In theſe Laws recited by **Hoveden** in the Life of King *Henry* the Second, King *Edwards* Laws are confirmed in theſe words; This We Command, That all Men have and hold the Law of King *Edward* in all things, together with thoſe Laws which we have added for the profit of the *Engliſh*. Concerning theſe *French* Laws, and thoſe added for the profit of the *Engliſh*, ſee this Anſwer, *f.* 254. A. B. C. *&c.* *f.* 257. E. F. *&c.*

THis is the place wherein *Hoveden* recites the Laws of King *William*; But is this *French* Title mentioned in *Seldens* Notes upon *Eadmer*, *f.* 173. and prefixed to the *Croyland* Copy of King *Williams* Laws, or the Tranſlation of it to be found there? Did you by comparing the *Croyland* Copy of *French* Laws in *Seldens* Notes, in number fifty, with the Laws in *Hoveden*, find any of them, or the Tranſlation of any one of them there? Why then do you ſay, that the Copy of King *Williams* Laws, brought by *Ingulph* Abbat of *Croyland*, from *London* in the Twentieth of his Reign, and publiſhed by *Selden*, are recited by *Hoveden*? See this Anſwer, *f.* 253. D. E. F. *f.* 254. A. There are added by *Selden* to theſe fifty *French* Laws, *Not. ad Eadmer*, *f.* 189. *n.* 40. out of ancient Parchments, and *John Brompton*, *ibid. f.* 193. *n.* 20. one and twenty more; which one and twenty Sir *Roger Twyſden* alſo ſubjoyns to the ſame *Croyland* Copy; *Lambard. Archaionom. f.* 170. out of the Red Book in the Exchequer, as being the beſt Exemplar of them. Of theſe additional Laws nine only are to be found in *Hoveden*, which he ſays were added for the profit of the *Engliſh*, and thoſe imperfect, as may appear by comparing of them, and the Teſtimony of Mr. *Selden*, which he ſays, *apud Rogerum Hovedenum ex mutilo nimium Exemplari obtruſæ ſint, aut librarorum injuriâ decurtatæ, Not. ad Eadm. lin.* 38.

Argumentum Antinorm. p. 28.

KIng *William* finding there was no remedy, though he was long reſolute, at laſt in a Common Council of his Kingdom yields, and by his *Magna Charta* he confirmed to them their ancient Laws, *ad præces Comunitatis Anglorum.* And then

Lambards Archaionom. f. 149. *ibid.* the fragment of *Litchfield* Chronicle, *f.* 158. *Hoveden*, *f.* 347. *n.* 10.

IN all theſe we are told what *William* did, *ad præces Comunitatis, Baronum*, or *Anglorum*; runs

runs on with a Citation out of Sir *Edward Cokes* Preface to the Eighth Report.

'Tis there said (if the Story be true) that he unwillingly granted their Requests; but 'tis not said in any of these Authors, that he could find no other Remedy, or that he was forced to yield to their Requests. Was he not Crowned, and made King by and under the influence and power of an Army? Was not that Army still with him? Why then do you say he could find no other Remedy, than to consent to their Petitions? Cannot crafty designing Men yield, though with reluctancy, what they cannot be forced to? Have they not often complied, though they had power to do otherwise? See more of this matter in this Answer, *f.* 241. D. E. *f.* 250. C. D.

Argument. Antinorm. p. 29, 30. out of *Mat. Paris, in vit. Frether. Abbat. f.* 48.

FOr the good of Peace, *William* Sware upon all the Reliques of the Church of St. *Albans*, touching the Holy Gospel, Abbat *Frederic* Administring the Oath, the good and approved ancient Laws of the Realm, which the Holy and Pious Kings of *England* his Ancestors, and especially King *Edward* set forth, inviolably to keep. From hence he would prove that *William* was no Conqueror, and that he did not abolish the *English* Laws, or change them; and that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of the *Englishmen*, *pag.* 30. and here again he would impose upon his Readers, by possessing them by this Fragment, that *William* did really observe and keep this Oath, and ruled accordingly.

Mat. Paris, in vita Fretherici Abbat. St. Alban. fol. 48. *n.* 30, 40.

REx pro bono pacis Juravit super omnes Reliquias Ecclesiæ Sancti Albani, tactisque Sacrosanctis Evangeliis (ministrante Juramentum Abbate Fritherico) bonas, & approbatas, antiquas Regni leges, quas Sancti, ac pii Angliæ Reges, ejus antecessores, & maximè Rex Edwardus Statuit, inviolabiliter observare, & sic pacificati, ad propria læti recesserunt; and so they were appeased and returned to their own homes. *Rex autem Caute propositum suum pallians; infra paucos dies, quos non poterat Confœderatos, & Congregatos superare; singulos dispersos, ac semotos occulte ac subito studuit, incautos infestare, ac infestatos & infestos suppeditare. Multos eorum Trucidando, Exhæredando, & quam plures proscribendo; Leges violans memoratas; & spoliatis Anglis pro libitu, ac sine Judicio Curiali depauperatis, suos Normannos, in suorum Anglorum naturalium, qui ipsum sponte sublimaverunt, provocationem, locupletavit, i. e.*

The King craftily palliating his purpose, within few days privily and suddenly surprised them when single and dispersed, who being united in a Body, he could not overcome; Many he put to death, from others he took their Estates, and very many he banished: violating that Law he had Sworn to observe, taking away their Estates at his own pleasure, without Judicial Proceedings, thereby impoverishing the Natural *English*, and enriching his *Normans*.

In

In the Seventh or Eighth of King *William*, the *Saxon* Nobility and Clergy that were left, raised an Army against him, and Rendevouzed at *Berchamstead*, and he to pacifie them Sware as above; by which Oath when he had made them secure, and circumvented them, he used them as we have heard.

Could you without your art of concealing, have produced this Story, to have proved, that King *William* observed the good, approved, and ancient *English* Laws? Could you have vouched it to prove, that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of *Englishmen*, without unheard of, and frontless Partiality? Yet these are the Inferences you make from the Sound only of your Scrap, *p.* 30. A

Argument. Antinorm. p. 33.

NAy though every body will acknowledge, that *Harold* came to the Imperial Crown of *England* by a general Election of the chief of the Nation, yet there is an ancient Author calls him Conqueror; and cites only *Ralph de Diceto*, *in Abbrev. Chr. col.* 479. to prove it; *A totius Angliæ primatibus ad Regale Culmen Electus* are his words; and only these he cites there in the Margin.

Rad. de Diceto, Col. 479. *n.* 10. Answer *to Argument. Antinorm. f.*

PAcificus Rex Edwardus, Epiphaniæ Domini vigilia, mortem obiit Lundoniæ; Haraldus Godwini filius, quem Rex ante suam Decessionem, Regni **Successorem Elegerat**, *a totius Angliæ* **primatibus**, *ad Regale Culmen Electus*, *&c.* This one Author is not every body, and if he were, these words will not prove that *Harold* was elected, but only accepted and submitted unto by the chief of the Nation, who by King *Edward* had been named his Successor to the Kingdom; See in the *Glossary* the word *Electus*. Further, Nor did every body, nor most of our best and ancientest Historians know it, for in this Answer (as above noted) it appears, that *Pictaviensis*, *Ingulph*, *Malmsbury*, *Hen.* of *Huntington*, and *Mat. Paris* judged him an Usurper, affirming, that by fraud and force he set the Crown upon his own Head. And our Author is unlucky in this point, for he confesseth it himself, *P.* 6. Hereupon considering how *Harold* had trickt him, and set the Crown on his own Head, he sends over several Ambassadors, *&c.* For what end did you conceal the greatest part of this Relation in *Ralph de Diceto*? Was it not, for that if you had cited it fairly, the meaning of it could never have served your purpose? B C D E

Argument. Antinorm. p. 25,26. out of *Seld.* Tit. of Hon. *fol.* 523. and he from *Malmsbury*.

THis *William* the First with his *French* and *Normans*, putting many hardships upon the

Malmsbury, *f.* 46. *b. lin.* 6. and *n.* 10. F

TOstinus a Rege Edwardo post mortem Siwardi Northanimbriæ Comitatui Prælatus, penè decennio provinciæ præfuit, quo exacto, asperitate morum Northan-

Englisb,

English, which occasioned great disorders and convulsions in the State, several of the *Saxon* chief Nobility betook themselves to Arms for the sake of their *avitæ Consuetudines*, to which they bore an immutable and immortal love, and which they feared some were endeavouring to take away and change them; though on the other hand they were obstinately resolved never to part from them, for they had *a majoribus didicisse, aut libertatem, aut mortem*; and they would rather undergo the worst Calamities of a more cruel War, than they would tamely quit and abandon those dear Laws and Customs to which they had so long been used, and were so well acquainted with.

The King hereupon to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused twelve of the most Discreet and Wise Men in every Shire throughout *England*, to take an Oath, to declare and lay open their Laws and Customs, without concealing, adding, or varying from the truth. See more in the Answer, *f.* 259, 260.

'Tis clear from it self, that this pretty Tale is all founded upon the words, *a majoribus didicisse, aut libertatem, aut mortem*, which were never uttered in this case, nor to this purpose, as appears in *Malmsbury*, from whence their Original.

imbros in Rebellionem excitavit. Solitarium enim repertum ex regione fugaverunt, pro contuitu Ducatus occidendum non arbitrati: **Homines** *ejus & Anglos, & Danos obtruncarunt, equos, & arma, & supellectilem omnem Corradentes; Rumore ad Regem delato, turbataque patria,* **Haroldus** *ivit obviam, ut propulsaret injuriam. Northanimbri licet non inferiores numero essent, tamen Quieti Consulentes, factum apud eum excusant; Se* **homines libere natos, libere Educatos, nullius ducis ferociam pati posse, a majoribus didicisse, aut libertatem, aut mortem.** *Proinde si subditos velit,* **Wacherium** *filium* **Elgari** *eis præficiat Rex. Hæc Haroldus audiens, qui magis Quietem patriæ, quam fratris Comodum attenderet, Revocavit Exercitum, & adito Rege, firmum Ducatum* **Wacherio** *Constituit.*

King *Edward* after the death of *Siward*, made *Tostin* Earl of *Northumberland*, who by his rough temper forced the People into Rebellion, and finding him without an Army, drove him out of the Country, killed his Men or Vassals, both *Danes* and *English*, seising upon their Horses and Arms, and all their Goods. Which being reported to the King, he sent *Harold* to chastise them. The *Northumbrians*, though not inferior in number, consulting their own quiet, excuse the Fact, saying, *They were Men freely born, and freely educated, and could not endure the Cruelty of any Duke or Earl,* **That they had learnt from their Ancestors, either to enjoy their Liberty,** or **hazard their Lives**; and if the King would have them obedient, he should send *Morcar* the Son of *Algar* for their Earl. *Harold* considering the Peace of the Country, more than the Advantage of his Brother, withdrew his Army, and coming to the King, fixed *Morcar* in the Earldom.

Were you not in a Dream when you transferred this Story of *Tosti* and the *Northumbrians*, to *William* the First, and the *English-Saxons?*

Argument. Antinorm. p. 57. out of *Sim. Dunel. f.* 214.

THere is one thing more I cannot but mention, and that is, the inconsiderateness of those Men, who so mightily cry up the absolute Conquest of *William* the First over the *English*, as if they were utterly broken or crushed, and all their Laws and Customs destroyed; when as it is demonstrably manifest, that at the time of *Robert* and his *Normans* Treason and Conspiracy against *William Rufus*, then King, and his Brother, to cut off him, and make *Robert* King in his room; I say, then the Interest of the *English* was so great and powerful, that it kept the Crown upon *Rufus* his Head, maugre all the power of the *Normans*, who universally joyned with *Robert*; and all this is easily proved, from a Scrap of four words in his Margin, out of *Simeon* of *Durham*, *Anno* 1088. *f.* 214. *Angli eum fideliter juvabant.* The *English* faithfully assisted *William Rufus.*

Sim. Dunelmen. Col. 214. *n.* 30. *Anno Dom.* 1088.

Hoc anno inter **Primates Anglie** *orta est discordia, Pars etenim* **Nobilium Normannorum** *favebat Regi Willielmo; sed* **Minima**: *pars vero* **altera** *favebat Roberto* **Comiti Normannorum**, *&* **Maxima**; *Cupiens hunc sibi asciscere in Regnum; fratrem vero ejus, aut fratri tradere vivum, aut regno Privare peremptum. Hujus execrandæ rei* **Principes** *extiterunt, Odo* **Episcopus** *Bajocensis, qui & erat* **Comes** *Cantuariensis, & Goffridus* **Episcopus** *Constantinensis, & Rodbertus* **Comes** *Morituenensis, & Rogerus* **Comes** *Scrobbesbyriensis; &* **Excellentiores principes totius Anglie**, *excepto* **Lanfranco Archiepiscopo**, *i. e.* This year there arose a great Division between the chief Men of *England*, for part of the Noble *Normans* favoured King *William*, but the least; the other part favoured *Robert* Earl of *Normandy*, which was the greatest; intending to make him King, and to deliver his Brother to him alive, or kill him, and deprive him of his Kingdom. The chief in this Execrable Practise were *Odo* Bishop of *Bayeux*, and Earl of *Kent*, and *Goffrid* Bishop of *Constance* in *Normandy*, *Robert* Earl of *Mortaign*, the Conquerors half Brother, and *Roger* Earl of *Shrewsbury*, and the greatest Men of *England*, except *Lanfranc* the Arch-Bishop. And number 60, in this Column, he adds to the Friends of *Robert*, *Roger Bigot*. *Florence* of *Worcester* adds *William* Bishop of *Durham* (as he says) a Wise Man, who at that time managed all the Affairs of the Nation; and *Eustachius* the younger Earl of *Bulloign*, and *Robert de Belesmo*, *fol.* 642. *Ordericus Vitalis* adds, *Hugh Grentmaisnil* Earl of *Leicester*; His Author *Simeon* of *Durham* relates what these did in their endeavours to set up *Robert*, and then proceeds: *Hoc audito, Rex fecit Convocare Anglos, & ostendit eis traditionem* **Normannorum**, *& rogavit, ut sibi auxilio essent, eo* **tenore**, *ut si in hac necessitate sibi fideles existerent, meliorem* **legem**, *quam vellent eligere, eis Concederet; & omnem injustum* **Scottum** *interdixit, & Concessit omnibus,* **Sylvas** *suas, & venationem. Sed quicquid promisit, parvo tempore Custodivit;* **Angli tamen et fideliter juvabant**, *Col.* 215. *lin.* 1. *&c.* The King hearing what was done, called together the *English*, and declared to them the Treason of the *Normans*, and desired their assistance, upon condition, That if they would be faithful

faithful to him in this neceſſity, he would grant them the beſt Law they would chooſe; He forbad all unjuſt Scots, (*i. e.* Collections or Tallages) and granted to all their Woods, or Foreſts, and Hunting. But whatſoever he promiſed he obſerved but a ſmall time; yet the *Engliſh* aſſiſted him faithfully. This Author doth not mention who, nor what *Engliſh* they were, nor do any of our ancient Hiſtorians that I have ſeen; and therefore we muſt have recourſe
A unto *Ordericus Vitalis*, an *Engliſhman* born, and a *Norman* Monk at this time, who gives an account what they were, *fol.* 667. *C.* His words are theſe; *Omnes Epiſcopi Angliæ, cum Anglis ſuæ Dolo Rege juvabant, Hugo* **Comes** *Ceſtrenſis, & Robertus de* **Molbrain** *Nordanhumbrorum* **Comes**, *& Guillelmus de* **Guarena**, *ac Robertus* **Haimonis** *filius, aliique* **Legitimi**, *maturique* **Barones**, *Regi fideliter adhærebant, eique armis & Conſilio contra publicos hoſtes Commode favebant.* All the Biſhops of *England*, with the *Engliſh*, without
B fraud aſſiſted the King, *Hugh* Earl of *Cheſter*, *Robert de Mowbray* Earl of *Northumberland*, *Robert Fitz-Haimon*, (he was Earl of *Glouceſter*, and had the Eſtate of *Brichtric*, the *Saxon* Earl thereof before the Conqueſt, given him, *Monaſt. vol.* 1. *f.* 154. *col.* 2. *n.* 40.) and *William de Warena*, and other lawful and ancient, or rather true and diſcreet Barons, adhered faithfully to the King, and helped him by Arms and Counſel againſt the publick Enemies. Beſides
C theſe, I find *Robert de Roelent* particularly named as his General againſt *Rocheſter* Caſtle. By theſe, and the Aid of *Roger* the great Earl of *Shrewsbury*, who was drawn and wheadled off from the Party of *Robert*, *Malmſbur. fol.* 68. *a. n.* 10, 20. the Confederacy againſt *William* was broken and deſtroyed.

If you had not been more eager in purſuit of a Scrap, than the Truth in this Relation, you might have obſerved, that the **Primates Anglie** were on both ſides, that the **Primates Anglie**, the
D Chief of *England* were the **Nobiles Normanni**, the Noble *Normans*, and that they were both the ſame Perſons as to Extraction, whereof the leaſt part favoured King *William*, and the greateſt Earl *Robert*. You might alſo have obſerved, that the *Engliſh* that *William* called together to adviſe and aſſiſt him in his Difficulties, had Woods (no ſmall ones certainly) or Foreſts, and pretended to liberty of Hunting in them, and if you can ſhew that the Bulk
E of the *Engliſh* had ſuch Poſſeſſions, or Priviledges at that time, (as they muſt have done, if your Aſſertion be true) I will forgive you this ſlip. You might alſo have obſerved, (if you had throughly underſtood this Story) that all the *Primates Angliæ*, or the *Nobiles Normanni* particularly named on both ſides, were really *Normans*, and not an *Engliſh-Saxon* amongſt them; and that theſe great Men particularly named were thoſe *Engliſh* that *William* called together; for 'tis not to be ſuppoſed he would propound and diſcourſe of ſuch great Affairs with little ordinary People. And laſtly,
F from all theſe you might have obſerved, that it is highly probable, if not certain, that the *Engliſh* in this and many other caſes mentioned, were *Normans* that had Eſtates in *England*, and lived there, and that the *Normans* were ſuch as had Eſtates in *England* and lived in *Normandy*. More of which in the *Gloſſary*.

Argumentum Antinormanicum, p. 110. LL. *Gulielm.* 55. there cited in the Margin.

AND one Law may be called the first *Magna Charta* in the *Norman* times, by which the King reserved to himself, from the Freemen of this Kingdom, nothing but their free Services due to him according to Law; In the conclusion saith, That they, to wit, the *English*, shall hold and enjoy their Estates well and in Peace, free from all unjust Exactions and Tallages; and this ratified and confirmed by the Common Council of the whole Kingdom.

LL. 55. *Will. primi, Lamb. fol.* 170.

VOlumus etiam & firmiter præcipimus & Concedimus, ut omnes **liberi homines** *totius Monarchiæ Regni nostri, habeant & teneant terras suas bene & in pace ab omni* **Exactione** *injusta & ab omni* **Tallagio**, *&c.* as in the *English*. What reason could there be, that you should call the **liberi homines**, the Freemen in this Law mentioned, *English?* Certainly none; but that you intend to impose upon your Readers. They are in this Answer clearly proved to be *Normans*, *f.* 299. where also may be seen the Services they were to perform.

Argumentum Antinormanicum, p. 111. 112. out of *Dugdales Orig. Juridic. f.* 16. as 'tis cited in the Margin, *p.* 108.

THE chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of several respective Counties, Cities, and Burghs, to this general Synod or Parliament.

Dugdales Origin. Juridic. f. 16.

THERE being mention made before of Illustrious Persons, or the chief of the Kingdom, it is said, *Hi autem illo Tempore, a Regia potestate, diversis provinciis, & urbibus, ad universalem Synodum pro causis cujuslibet Christianæ Ecclesiæ audiendis & tractandis, Convocati.* In the Translation of this you have foisted in the word **Burroughs**, to serve your purpose the better, it not being to be found in the Original, nor in your own Citation of this place, *p.* 109.

Appendix to *Argumentum Antinormanicum*, p. 162.

FOR the Petition and Law is, That *Richard* the Second should be as free in his Regality, Liberty, and Dignity Royal

Answer to Mr. *Petyt's Rights of the Commons Asserted*, p. 43.

THE truth is, the greatest part of the ancient Law under our ancient Kings after as

as any of his noble Progenitors Kings of *England*; Then it naturally follows, that he was to be as free and absolute as *William* the Conqueror. And then what is the Conclusion and Result, but that the *English* were neither to have Estates nor Fortunes left them: and therefore it could be no great matter to them, by what Law, Right, or Property Men held their Estates. And for the last words, he cites the Answer to Mr. *Petyt*'s *Rights of the Commons Asserted*, *p.* 43. and would make that Author guilty of an odious and vile assertion, by leaving out one little word, which carries the sense of the whole Sentence.

the Conquest, was the Feudal Law, brought hither by the *Normans*, under whom it was more rigidly exacted and observed than in the *Saxon* times, and that by and upon only the *Normans* themselves. For the *English* had neither Estates or Fortunes left, and therefore it could be no great Matter to them by what Law, Right, or Property *other* Men held their Estates. Here you very disingenuously left out the word (other) before Men, which makes the sense of the words quite different from what you make it, and with the addition of that word, hath a very fair and just meaning, which cannot be perverted.

Thus at your Request, I have shewn in many Instances, how partial you have been in your Citations, taking some fragments, or parcels of Sentences, or sometimes a short Sentence you thought might serve your turn, and always leaving what you could not but know would have destroyed your Notion and Argument; And also have evinced both here and throughout the Answer, how unjust or ignorant you have been in the Explication and Application of what you have cited, rendring and interpreting the words in several places, rather according to their sound, than true meaning. And therefore I expect you should, to make good your Engagement, discover your self, confess your Ignorance, Errors, and Mistakes, and declare how you have been misled into them: who set you on work, and the true design for which you wrote; and more especially, by what means, and for what end and reason you did so much abuse and corrupt the Record, by your false interpretation, application, and leaving unrecited part of it, 15 *Rich.* 2. *Rot. Parl. n.* 13. as I have shewn in my Answer to the Argument grounded upon it, in your *Appendix*, *p.* 161. Certainly you would never have alledged this Record, and many other Authorities you produce in this Book, had you thought any Man would have examined them, or endeavoured by Authentick History of those times to discover the true meaning of them. When you write again, cite fairly the Records and Authorities you make use of, and endeavour to find out the genuin and just sense of them, and abuse not, nor trouble the World by corrupting them with false, partial, forced, factious, and opinionative Glosses: and then reply to this Answer if you can, and write what you can on these Subjects, or any Man else.

And so I will end this Answer as you do your Argument and *Appendix*, and in your own words, That my only [8.] design is the detection of Error, and Establishment of Truth to future Generations, and not to have the World imposed upon by the Tricks, Impostures,

(8.) *Append.* *p.* 164. and the last.

poſtures, and Artifices, which too many have been guilty of, either to promote their own particular gain and Intereſt, (to which ſuch Men care not what they ſacrifice) or upon a far worſe and more grievous Conſideration, to bring the whole Nation into dividing Parties and Factions; and thus by embroils and entanglements, to throw them at laſt into fatal Convulſions, to the deſtruction both of Prince and People. And that theſe have been the Effects of your Popular Scriblings, Partial Citations, deſigning Concealments of ſome, and wilful miſapplication of other parts of Hiſtory and Records, it is clearer than the Sun at Noon-day; and not without ſuſpicion, that the miſinterpreted, and miſapplied Scraps, and Shreds in one of theſe Popular, Seditious Pieces, deſigned to overturn the Government, and publiſhed on purpoſe to uſher in Anarchy and Confuſion, written by an Inner Templer, and Dedicated ——— with other ſuch like Stuff the Author might furniſh him, did mightily contribute to the Seduction, and Rebellious and Traiterous Practiſes of a great Man, who laid violent hands upon himſelf, to prevent the Hand and Stroke of Juſtice.

And like to this Piece, are *Jani Anglorum facies Nova*, *Jus Anglorum ab Antiquo*, Reflections upon *Antidotum Britannicum*, *Londinum Triumphans*, *&c.* with many others of the ſame Batch. All written and tim'd, with deſign to promote Sedition, and in expectation of Rebellion, and the deſtruction of the Eſtabliſhed Government.

A B C D E F

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A

True and Exact

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OF THE

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THe first that I have seen and noted, that directly asserted the Peoples or Subjects right and power to depose and punish their Kings, was *Johannes de Parisiis*, a [1.] Frier of the Order of Preachers, and a Schoolman, who flourished in the year 1296. and lived in *Paris* at the time of Discord between *Philip* the Fair, King of *France*, and Pope *Boniface* the Eighth: He wrote a Book *de potestate Regia & Papali*, Printed at *Basil* without Date, in which Book in the fourteenth Chapter he splits an Hair between the King and Pope, who maintained he had both [2.] Spiritual and Temporal Authority over the King. *De potestate vero Correctionis seu censuræ Ecclesiasticæ sciendum, quod non est nisi spiritualis directæ, quia nullam pœnam in foro Exteriori potest imponere nisi spiritualem, nisi sub conditione & per accidens; non enim potest Judex Ecclesiasticus ratione delicti, imponere pœnam Corporalem, vel pecuniariam, sicut facit Judex Secularis, sed solum si ipse velit eam acceptare. Si non vult eam acceptare, Compellet eum Judex Ecclesiasticus, per Excommunicationem, vel aliam pœnam Spiritualem, quæ est ultima quam potest inferre, nec ultra potest aliquid facere, nisi dico per accidens, quia si esset Hæreticus, & incorrigibilis, & Contemptor Ecclesiæ, posset Papa aliquid facere in populo, unde pravaretur ille seculari honore, & Deponatur a populo. Et hoc faceret* Papa *in Crimine Ecclesiastico, Cujus Cognitio pertinet ad ipsum,* Excommunicando, *scilicet omnes, qui ei ut Domino obedirent; & sic populus ipsum deponeret & per accidens. Sic etiam è Converso, si* Papa *esset Criminosus, & scandalizaret Ecclesiam, & incorrigibilis esset, Princeps posset ipsum Excomunicare indirecte, & deponere ipsum per accidens, movendo scilicet ipsum per se, & per Cardinales: Et si quidem Papa quiescere nollet, posset aliquid facere in populo, unde Compelleretur cedere, vel deponeretur a* Populo, *quia* Imperator *posset sub* Hypotheca *rerum, vel* pena *Corporum inhibere omnibus & singulis, ut nullus ei obediret, vel serviret ut* Pape, *& hoc quidem potest* uterque *in* Alterum. The meaning of all which Scholastick, uncouth Discourse, is, That the Pope or Prince indirectly, and by a side Wind, and with the help of the People, may in some cases Depose each other; For this Assertion

[1.] *Bellarm. de Scriptor. Ecclesiastic. ab An.* 1200. *ad* 1300. Some ancient Schoolmens Opinion about the Peoples Power to Depose Kings. [2.] *De Serres* History of *France, f.* 200. A.

Kings and Popes may depose each other by help of the People, as saith *John de Parisiis.*

Bellarmin in the place forecited, ſays he was more kind and inclinable to the King than to the Pope.

But a little further in this Chapter he is more expreſs, for the Power of the Barons and Peers of *France*, than he is in either of theſe Caſes. *Ubi vero* **Rex** *peccat in Temporalibus, quorum cognitio ad* **Eccleſiaſticum** *non pertinet, Tunc non habet ipſum Corrigere primo, ſed* **Barones** *&* **Pares** *de Regno, qui ſi non poſſunt vel non audent, poſſunt invocare auxilium* **Eccleſie**, *&c.* But where the King offends in Temporals or in Government, the Pope or Eccleſiaſtick hath no power to Correct him, but the Barons or Peers of the Realm; and if they either dare not or cannot meddle with him, they may then crave aſſiſtance of the Church. And for this Reaſon, after he hath told the Story how *Childeric* King of *France* was Depoſed in the fifteenth Chapter, he ſays *Zacharias* the Pope did not depoſe him, but the Barons did it, and ſet up *Pipin* by his Conſent, which they might have done without it. B

Pipin was an Uſurper, and *Childeric* was Depoſed by his own Contrivance, notwithſtanding he was ſet up by the Aſſembly of Eſtates, who that they might not lay aſide the Fundamental Law of State in Succeſſion, declared him firſt to be Heir to *Clovis* the Great, *De Serres*, *f.* 46, 47, and 60.

* *Ludovicus Bavarus*, as he is termed in Hiſtory.

An Account of the Depoſing *Childeric* King of *France*.

The next is *Marſilius Patavinus* in his Tract *De Tranſlatione Imperii*, publiſhed in the time of the Emperor * *Lewis* of *Bavaria*, who began his Reign *Anno Domini* 1314. Printed at the ſame time and place with the former Diſcourſe. In the ſixth Chapter, *f.* 230. *B.* he give an Account of the laſt mentioned Depoſition of *Childeric*, *&c.* **Pipinus Caroli Martelli** *filius in rebus Bellicis Strenuus, Catholicus, &c.* *Pipin* the Son of *Charles Martell*, ſtout in War, Catholick, and famous for his honeſt Converſation, according to the Writings of Clerks, who endeavour to uſurp to themſelves Imperial Authority, was by Pope *Zachary* of a *Major-Domus*, made King of *France*; becauſe (as they ſay) he Depoſed *Childeric*, not ſo much for his Impiety, as his diſability to Govern; and ſubſtituted *Pipin* in his place, and abſolved all the *Frenchmen* from their Oath of Fidelity to *Childeric*. But *Aimonius* in the Acts of the *French*, reports more truly, That *Pipin* was choſen King, and ſet up by the Nobility, (*per Regni Proceres*) the great Men of the Kingdom, and that he was Anointed by *Boniface* Arch-Biſhop of *Rhemes*, (but truly of *Ments*) at *Soiſſons* in the Monaſtery of St. *Modard*. Whence 'tis clear *Zachary* did not Depoſe him, but (as ſome ſay) conſented to thoſe that did Depoſe him. *Nam talis* **Depoſitio** *Regis, & alterius* **Inſtitutio** *proper rationabilem Cauſam, non ad* **Epiſcopum** *tantummodo, neque ad* **Clericum** *aliquem, aut* **Clericorum Collegium** *pertinet, ſed ad* **Univerſitatem** *Civium inhabitantium regionem, vel* **Nobilium**, *vel ipſorum* **Valentiorem Multitudinem**. For ſuch Depoſing of a King, and ſetting up of another, pertains not to a Biſhop alone, nor to any Clerk, or Colledge of Clerks, (he means the Cardinals, or ſuch as were afterward called ſo) but to the Univerſity of the Inhabitants of the Country, or the Nobles, or the prevailing part of them. Thus far *Patavinus*. C D E F

Yet for all what is here ſaid, and the great Character *John de Serres* gives of *Pipin*, and the low Eſteem he hath of *Childeric*, (who was an eaſie weak Man) it appears by his Report of this matter, and may eaſily be [3.] made out, (though he is a great Friend to *Pipin*, and approves of the Action) That *Pipin* was an Uſurper, and was made King by his own Contrivance, and Aſſiſtance of

[3.] Hiſtory of *France*, *f.* 56, 57.

of the Pope, moved with hopes of Aid from him againſt *Aiſtulph* King of the *Lombards*, his great Enemy and Oppreſſor. And when the [4.] Eſtates of *France* or Parliament had reſolved to lay aſide *Childeric* and ſet up *Pipin*, yet they did it with great care, that the [5.] Fundamental Law of State (which was that of * Hereditary Succeſſion by Blood) ſhould not be directly infringed by this new Election, and therefore they bring him from the Race of great *Clovis*, (Grandchild to *Merovee*, who gave the name of *Merovingiens* to the firſt Race of *French* Kings, whereof this *Chilperic* was the laſt) of whom they ſaid he ſhould be acknowledged next Heir, ſeeing he approached neareſt to him in Vertue.

[4.] *Ibidem, f.* 60. A.

[5.] *Ibidem, f.* 3. B. C. * Where this Fundamental Law is to be found.

About 200 years after [6.] *Jacob Almain*, a Doctor of Divinity, and Schoolman, in a Tract *de Poteſtate Eccleſiaſtica*, Printed at *Paris* without Date, in an old Character, *Chap.* 1. *Tit. de Diviſione poteſtatis, &c.* Of the diviſion of Power into Eccleſiaſtick and Secular, he lays down this Definition of Secular or Lay-Power. *Poteſtas laica ſive ſecularis, eſt poteſtas à populo ex* **Succeſſione** *hæreditaria, vel* **Electione** *alicui, vel aliquibus tradita regulariter, ad Edificationem* **Communitatis**, *quantum ad res civiles, ſecundum leges civiles, pro conſecutione habitationis pacificæ.* Lay or Secular Power is regularly given by the People to one or ſome, to be enjoyed by Hereditary Succeſſion, or by Election, for the benefit of the Community, as to Civil Matters, according to Civil Laws, for the obtaining and preſervation of Peace, *Ibid. f.* 1. *a. col.* 2. Having laid down this Foundation in another ſmall Tract, *de Authoritate Eccleſiæ, Cap.* 1. *Tit. de Origine, &c.* Of the Origin of Civil Juriſdiction; He builds upon it this Aſſertion, That, *Tota* **Communitas**, *&c.* the whole Community hath power over the Prince Conſtituted by it, by which he may be Depoſed, if he rules not to the advantage, but deſtruction of the Government, otherwiſe it ſhould not have a ſufficient power to preſerve it ſelf; and this Power the Community of *France* uſed when they Depoſed their King, not ſo much for any Crime, as for that he was unable to Govern, *Ibid. f.* 46. *b. col.* 1. *Corollar.* 3. This was the caſe of *Childeric* again, as appears in the next ſubſequent words of *Almain:* and this Caſe is commonly the firſt Inſtance and Example in all the Writings of Schoolmen, Friers, and Jeſuits, Calviniſts, Puritans, Diſſenters, and Republicans, for the Power of the People over their Kings, Princes, or Superiors. This Author ſays of himſelf at the end of the laſt Tract, That he wrote it in the year 1512.

[6.] *Bellarm. ut ſupra. Ab anno* 1400, *ad* 1500.

From theſe Schoolmen we paſs on to *John Calvin*, who was born at *Noyon* in *Picardy*, and from his youth had an inclination to the Study of Divinity, and in his firſt entrance upon it, liked beſt the Reformed; and finding no encouragement in *France*, reſolved to remove himſelf either to *Strasbourgh* or *Baſil*. From the later it was, that he writes and directs the [7.] Preface to his *Inſtitutions of Chriſtian Religion*, to *Francis* the Firſt King of *France*, a great favourer of Learning and Learned Men, *Aug.* 1. 1536. in which he tells the King, That by lying Calumnies thoſe of his Perſuaſion were traduced with Deſigns of wreſting Kings Scepters out of their Hands, ſubverting Government, perturbing the Peace and Quiet of the People, and turning all things topſie turvy; which imputations if

Calvins Opinion of the Subjects power to Depoſe Kings.

[7.] See the Preface *in fine.*

if they were in the leaſt degree true, the whole World might juſtly judge them worthy of a thouſand Fires and Gallows, and therefore craves his Protection for their ſublime Doctrine, which was above all the Glory of the World, and ought to ſtand invincible above all Power, becauſe it was not theirs, but the Doctrine of the Living God, and his Chriſt; and after ſufficiently reviling the then preſent Eccleſiaſticks, Church, and Government of *France* for their very ſevere uſage of them, he denies their enmity to Kings, and endeavours to perſuade him to read with attention that Preface, and hear their Cauſe, and in great probability it was to pleaſe and wheadle this King, to whom he directed the Preface, that in the twentieth and laſt Chapter of the Book of this firſt Edition, *Sect.* 21, 22, 23, 24, 25, 26, 27, 28, 29. he laid down the Doctrine of Obedience, and the unlawfulneſs of Reſiſtance in what caſe ſoever, with as much truth and clearneſs as perhaps any Man could do it. But when, as in this very Month of *Auguſt*, he was called to *Geneva* by the importunity of *Farell*, and there [8.] made Divinity Reader, in the thirtieth Section and the laſt but one, he changeth his note, and deſtroys all his Orthodox Aſſertions concerning Obedience to, and the unlawfulneſs of the Reſiſtance of Kings, or Supream Magiſtrates, and turns it off thus with a *de privatis hominibus ſemper loquor*; That all what he had ſaid of Obedience and Non-Reſiſtance, was only ſaid and meant of private Men. For before he came at *Geneva* ſeveral years, *Viret* and *Farell*, two Preachers that had imbibed the Doctrine of *Zuinglius*, and were addicted to his method of Reformation in *Switzerland*, dealt firſt with the Biſhop to abandon the Pope, and Reform according to the Examples of *Zurich*, *Bern*, *&c.* but finding him inflexible, they practice with the People, and ſome under-Officers of the City, and in a Popular Tumult expel the Biſhop (who was alſo Temporal Prince) with his Clergy out of the City, never to return more, and ſet up a Popular Government by a Common Council of 200, and four Annual Syndicks, to be choſen out of them, without the conſent and againſt the good liking of their immediate Prince the Biſhop, and their Supream the Duke of *Savoy*.

[8.] *Heylins* Hiſtory of Presbyt. *f* 5.

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These Rebellious Proceedings *Calvin* had allowed, as he ſays, in his Letter to Cardinal *Sadolet*, (*Quæ a Vireto & Farello facta ſunt, meo ſuffragio Comprobavi*) ſo that he muſt juſtifie them, and therefore when he had declared, that what he had ſaid about Obedience, and Non-Reſiſtance was only to be underſtood of private Men, he immediately goes on to defend *Viret* and *Farrells* unwarrantable, ſeditious, and turbulent Actions, in theſe words. *Nam ſi qui nunc ſint* **Populares Magiſtratus** *ad moderandum* **Regum** *libidinem Conſtituti, quales olim erant, qui* **Lacedemonitis Regibus** *oppoſiti erant,* **Ephori**: *aut Romanis Conſulibus,* **Tribuni** *plebis: aut Athenienſium ſenatui,* **Demarchi**: *& qua etiam forte poteſtate, ut nunc res habet, funguntur in ſingulis Regnis* **tres Ordines**, *cum primarios Conventus peragunt; adeo illos ferocienti Regum licentiæ, pro officio intercedere non veto, ut ſi Regibus impotenter Graſſantibus, & humili plebeculæ inſultantibus Conniveant, eorum Diſſimulationem nefaria perfidia non carere, affirmem: Quia populi Libertatem, cujus ſe Dei Ordinatione,* **Tutores** *poſitos norunt, fraudulenter produnt.* For if there now be any Popular Magiſtrates Conſtituted to reſtrain the Licentiouſneſs of

E

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His ſecond Edition of this Book, as appears by the Epiſtle to the Reader, was at *Strasburgh* 1539. when he was Baniſhed from *Geneva*, and yet he retained this beloved paſſage.

of Kings, such as of old were set up against the Kings of *Sparta*, the Tribunes of the People against the *Roman* Consuls, and the *Demarchi* against the *Athenian* Senate, and with such power peradventure also, as things now are, the Three Estates in every Kingdom are endowed with, in their solemn and principal Conventions. I am so far from prohibiting such, to repress the unrulineſs of Exorbitant Kings according to their Office, that I affirm them guilty of a nefarious and perfidious Dissimulation, when they connive at Kings making havock upon, and insulting over the low and ordinary People, because they fraudulently betray the Liberty of the People, of which they know themselves Guardians by the Ordinance of God.

Thus *Calvin* laid the Foundation of Rebellion cunningly upon Conditionals, as it were, and suppositions; Since which time most Presbyterians, Puritans, and Dissenters have turned his Conjunction Conditional into an Illative, his Adverb of doubting into an Affirmative, and his permissive (*non veto*) into a Verb of the Imperative Mood, in their Discourses against Tyrants, (as they call them) but of their own making, in their Books of the Rights of Magistrates, and Duties of Subjects, of Secular Government, and Ecclesiastick Discipline; but never were wretched Men more miserably abused and deceived than by *Calvin*, nor never any Mans Ignorance in History more clearly discovered than his, in laying down this Historical Foundation of the *Ephori*, *Tribunes*, and *Demarchi*, and rearing upon it the Structure of Sedition and Rebellion.

Calvin mistaken in the Office and Employment of the *Ephori*, *Tribunes*, and *Demarchi*.

For the *Ephori* were at first chosen by the Kings of *Lacedemon* themselves to curb the Senate, which began to incroach upon Regal Power, to be subservient to them, to sit in Judgment for them, and discharge such Offices as the Kings pleased to trust them with in their times of absence. And Secondly, The Tribunes were first instituted to no other purpose, but to preserve the People from unjust Oppression, and that their opposition to the Consuls was accounted always to be against the first grounds, and a breach of the Laws of their Institution: and were at first chosen in *Centuriatis Comitiis*, where the *Patricii* or Noblemen had the greatest power. Both these sorts of Officers in process of time became Popular and Seditious, and studied how to humour, please, and serve the People, that they might serve them; and at length projected, and obtained their Elections by the Rabble, by whose assistance they committed the greatest Insolencies, and acts of Injustice in *Sparta* and *Rome* that have been heard of in the most Wild, Rude, and Barbarous Democracy or Anarchy, which in the end was their ruine and destruction in both places. And as for the *Demarchi*, they neither by Institution or Usurpation did oppose the Senate of *Athens* in behalf of the People, but executed their Commands upon the People, as their Duty bound them; Nor have the Three Estates of every Kingdom power to control the Actions of their Prince, as *Calvin* suggests; All which things are learnedly and solidly proved and demonstrated against him by Dr. *Heylin*, in his *Stumbling Stone of Disobedience and Rebellion*, Chap. 2, 3, 4, and 6.

From

John Calvin.

From *John Calvin* we will proceed with his Iſſue and Admirers. *Chriſtopher Goodman* one of the Faction and Schiſm at *Francfort*, who removed from thence with *Whittingham* and *Knoxe* 1555. to the place of their Education *Geneva*, where he publiſhed a Treatiſe of Obedience, with the Approbation of the Divines of that City, *Anno* 1557. wherein he affirmeth, That if Magiſtrates tranſgreſs Gods Law themſelves, and Command others to do the like, they loſe that Honour and Obedience, which otherwiſe is due unto them, A and ought no more to be taken for Magiſtrates, but to be Examined and puniſhed as private Tranſgreſſors, (and the Judgment whether they Tranſgreſſed Gods Law or not, was always reſerved to the Preſbytery, Claſſis, Synod, or National Aſſembly.)

Whittingham.

Whittingham in his Preface to this Book, ſays, That if Kings and Princes refuſed to reform Religion, the inferior Magiſtrates or People, by direction of the Miniſtery, might lawfully, and ought B (if need required) even by Force and Arms, to reform it themſelves.

Knoxe. [9.] In dangerous Poſitions Printed at *London* by *John Wolfe*, *Anno Domini* 1593. p. 15.

Knoxe. [9.] God hath appointed the Nobility to bridle the inordinate Appetites of Princes, and in ſo doing they cannot be accuſed as Reſiſters of Authority; in his Hiſtory, *p.* 343.

[1.] *Ibidem.*

It [1.] is the Duty of the Nobility to repreſs the rage and inſolency of Princes; in his Appellation, *f.* 13. C

[2.] *Ibidem.*

Princes for juſt [2.] Cauſes may be depoſed; in his Hiſtory, *p.* 372.

[3.] *Ibidem.*

It is not [3.] Birthright only, nor Propinquity of Blood, that maketh a King lawfully to Reign above a People, profeſſing Jeſus Chriſt; *Knoxe* to *England* and *Scotland*, *f.* 77. D

[4.] *Ibidem*, p. 16.

If Princes be [4.] Tyrants againſt God and his Truth, their Subjects are freed from their Oaths of Obedience; in the ſame place, *f.* 78.

In his Exhortation to *England*, Printed at *Geneva* 1559. *p.* 91, 92. Neither Power nor Liberty be permitted to any of what Eſtate, Degree, or Authority that ever they be, either to live without the E Yoke of Diſcipline, by Gods Word Commanded, either yet to alter, to change, to diſannul, or diſſolve the leaſt one jot in Religion, which from Gods Mouth thou haſt received; But if Prince, King, or Emperor would Enterpriſe to diſannul the ſame, that he be reputed Enemy to God, and therefore unworthy to Reign above his People; Yea, That the ſame Man or Men that go about to deſtroy Gods true Religion once Eſtabliſhed, and to erect Idolatry, which God deteſteth, be adjudged to Death according to Gods Commandment. F

They will make themſelves Judges whether any Worſhip be Idolatrous or not.

Nothing ſo common as for the *Geneva* Men, and *Scotch* Presbyterians, to rail againſt the Church of *England*, as it was Eſtabliſhed by Queen *Elizabeth*, as an Idolatrous Church; And our *Engliſh* Preſbyterians charge the Church of *England* with Idolatry, in their Remonſtrance of the State of the Kingdom, [5.] *December* 15. 1641.

[5.] Exact Collect. p. 20.

Beza,

Beza, Anno Domini 1560. Printed his Confeſſions, wherein he ſays, [6.] That there are Vices inherent in the Perſons of Princes, though they be lawfully Eſtabliſhed by Succeſſion or Election, *viz.* Ungodlineſs, Covetouſneſs, Ambition, Cruelty, Luxury, Lechery, and ſuch like Sins, which Tyrants delight in. What ſhall be done in this Caſe to theſe Princes? I anſwer, (ſaith he) That it belongeth to the Superior Powers, ſuch as are the ſeven Electors in the Empire, and the Stateſmen of the Kingdom almoſt in every Monarchy, to reſtrain the fury of Tyrants, which if they do not, they are Traytors to their Countries, and ſhall before the Lord give an account of their Treachery. This Man ſucceeded *Calvin* in his Office and Power at *Geneva*, and likewiſe followed him in his Principles and Poſitions, as may be noted, ſcattered up and down in his Writings.

Beza. [6.] *P.* 216.

The *Scotch* [7.] Miniſters and Preachers allowed of this Doctrine and Opinion, who having notice, that the Queen had Maſs ſolemnized with more than ordinary Pomp and Ceremonies on *All-Saints* day 1561. they admoniſhed the Nobility of their Duty in their publick Congregations and Meetings, which was, to reduce the Queen to obedience of their Kirk Laws. And in a Diſcourſe in a private Houſe between the Noblemen and Miniſters, they affirmed peremptorily, and perſevered in their opinion, That the Noblemen might force her; but the Noblemen being the greater number, (and as *Buchanan* ſays) corrupted with Favour or Money, determined againſt the Miniſters.

[7.] *Buchan.* Hiſt. Printed at *Utrecht*, 1668. *p.* 609. The *Scotch* Preachers.

In the year 1582. *Aug.* 23. certain Noblemen of *Scotland* reſtrained and [8.] impriſoned King *James* at *Ruthven* five or ſix days, for the preſervation of his Perſon, and the perfecting of the Reformation of Religion, until they had removed from him ſuch Perſons as they thought fit, and obtained what they deſired.

[8.] *Spotſw.* Hiſt. *f.* 320, 321, *&c.* King *James* impriſoned at *Ruthven.*

On the Thirteenth of *October* following the General Aſſembly [9.] Ratifies this Rebellious Attempt and Surprize of the King, calling it only a Repair to the Kings Majeſty, to ſeek Redreſs of the Diſorders fallen out in the Common-weath; and they Order all the Miniſters within the Realm, upon the firſt occaſion, publickly to declare to their Flocks, the peril wherein the Church of God, and true Religion, the Kings moſt Noble Perſon and Eſtate ſtood: with the Grounds that moved the ſaid Noblemen unto the late Action; Recommending the ſame to the Conſideration of all good Subjects, Exhorting them as they tender the Glory of God, and love the preſervation of the King and Country, faithfully to concur and join with the ſaid Noblemen in proſecuting the ſaid Grounds, to the full deliverance of the Church, and perfect Reformation of the Common-wealth, *&c.*

[9.] *Ibid. f.* 322, 323. The Aſſemly Ratifies that Rebellion.

In the year 1583. the King being at Liberty, by [1.] Advice of his Privy Council, declares this Fact Treaſon; and by Act [2.] of Parliament Convened on the Seventeenth of *December* that year, it was by univerſal Conſent Enacted, That this Surprize and Reſtraint of the King, perpetrated in *Auguſt* by gone a year, was a Crime *Læſæ Majeſtatis*, hainous in it ſelf, of dangerous ſequel, and moſt pernicious Example, *&c.*

[1.] *Ibidem, f.* 326.

[2.] *Ibidem, f.* 329.

In

De jure Magiſtratuum, &c.

In the year 1576. comes forth a Book with this Title, *De jure Magiſtratus in ſubditos, & de officio ſubditorum in Magiſtratus*; Of the Right of Magiſtrates over their Subjects, and of the Duty of Subjects towards their Magiſtrates. In the Title Page 'tis ſaid to be Tranſlated out of *French* into *Latin*, and to have been Printed, *apud Johannem Mareſcallum Lugdunenſem*, by *John Marſhall* of *Lyons*. A Piece ſo wicked, and ſo deſtructive of Peace and Human Society, that neither Papiſts nor Puritans would own it; [3.] The firſt ſaid, *Hottoman* a *French* Civilian and a Calviniſt was the Author of it; Dr. *Reynolds* in the [4.] Conference at *Hampton-Court*, would make *Ficleny* a *Romiſh* Prieſt Author of it; but the then Biſhop of *London* affirmed it to be the work of a Diſciplinarian, by which word a Presbyterian was always underſtood. A

[3.] *Heyl.* Hiſt. of Presb. *f.* 75.
[4.] *P.* 49, 50.

In the year 1580. both theſe Books came forth in one Volume, but not ſay where Printed. The Author. Dangerous Poſitions, cites *Beza* as Author of the firſt.

The next year following, as appears by the Epiſtle, dated *Jan.* 1. from *Soloturn* in *Switzerland* 1577. under the name of *Stephanus Junius Brutus*, was publiſhed a Book with this Title, *Vindiciæ contra Tyrannos*, The Aſſertion of the Liberty of the People againſt Tyrants. Both theſe Pieces are of the ſame Argument and Tendency; and it was from them that *Julian the Apoſtate* had moſt of his Hints, and much of the Materials, with which he built up his Doctrine of Reſiſtance; and if ever he Replies to the Anſwerers of him, the Foundation and many chief particulars of his Replication will be found in them alſo. It was generally believed to have been written by *Beza* under theſe feigned [5.] names. B C

[5.] *Heylin, ut ſupra.*

Buchanan, De Jure Regni, &c. Printed at *Utrecht* 1668.

In the year 1579. *George Buchanan*, Tutor to King *James*, a violent Presbyterian, publiſhed a Treatiſe, the Title whereof is, *De Jure Regni apud Scotos*; The Right of the *Scottiſh* Kings. But in the Dedication to King *James* on the Tenth of *January* in the year aforeſaid, he ſays, That in this Dialogue he endeavoured to explain what Right and Power there was amongſt Kings and Subjects themſelves from the beginning. And it was written to juſtifie * the Proceedings of the Noblemen againſt Queen *Mary* in their Reformation of the Kingdom of *Scotland*. D

* *Spotſwoods* Hiſt. *f.* 325.

Buchanans Opinions concerning Kings.

1. In this Treatiſe (which is but an Abſtract of *Junius Brutus* his *Vindiciæ, &c.* and of the Author *De jure Magiſtratuum, &c.* put into a clearer method) he aſſerts, That the People have right to diſpoſe of the Kingdom to whom they pleaſe, *p.* 11. E

2. That Laws were invented by the People to reſtrain Kings, *p.* 14.

3. The People that give Empire, ought to appoint the *modus* or manner of that Empire, how the King ſhall Reign, *p.* 21.

4. Yet not the Multitude or Rabble, but certain ſelect People of every Order, are to prepare the Deſign of the Kings Reign, and then propound it to the Judgment of the People, *Ibid.* F

5. Princes that tranſgreſs the Laws are to be accounted as Wolves and Thieves, and ſuch as come not under the fence of the Law are to be accounted Enemies to God and Man; and he that kills Wolves,

Wolves, and Noxious Animals, doth the *Publick* good Service, *p.* 36.

7. The *Scottish* Kings have all their Power from the People, and therefore they are above the King, and the Multitude hath the same Right over Kings, that they have over every one of the Multitude, *p.* 52. and may for just Causes be Deposed by the People, *Ibid.*

The People will make themselves Judges of these just Causes, and must do so to accomplish their Designs. Here they will and must judge again who are Tyrants, that is, any King they please to call so.

8. The Scripture Commands wicked Men should be destroyed without any exception of Degree or Order, and there is no more caution and respect to be shewed unto *Tyrants* than to private Men, *p.* 48.

9. The People are greater and more Excellent than the King, therefore when the King is judged by the People, the less is judged by the greater, *p.* 56.

10. If the Estimate of the People be taken, not from their number, but from their worthiness, not only the better part, but the greater part shall stand for Liberty, for safety, and for what is honest, *p.* 58. meaning hereby that the most worthy of the People (that is, those which the Presbyterians and Factious People shall esteem such) are the better and greater part, though not in number.

11. If a King doth not willingly submit, or cannot be forced to answer the Peoples Charge against him, he may be *killed*, and the People may raise War against him, and every private Man may kill him, *p.* 62.

12. An Usurper or Invader of Empire by force, if he Rules well, is to be obeyed, and not to be disturbed, or as he says, violated, *p.* 64.

13. Wicked Kings to be Excommunicated, as other wicked Men, and to be prohibited Human Society, that unless they Repent, they may perish as other wicked Men, by Hunger, Cold, and Nakedness, *p.* 65.

This last is said in answer to this Question; What is the Censure of the Church concerning Tyrants? *Ibid.*

This Book and his History Censured in Parliament.

This Book with his History after his death was Censured in Parliament 1584. *n.* 134. and such as had any of them were to deliver them to the Secretary of State, or his Deputies, within forty days, or were to pay 200 *l.* or be punished in their Persons.

Dudley Fenner. [6.] *Lib.* 5. *Cap.* 13. *p.* 80. *b.*

Dudley Fenner in his *Sacra* [6.] *Theologia*, (Printed *apud Eustathium Vignon*, *Anno Dom.* 1586. with *Cartwrights* Epistle before it directed thus, *Ornatissimo & clarissimo fratri, & in Ministerio Collegæ, Domino Dudleio Fennero*) makes two sorts of Tyrants; one, *sine Titulo*, a meer Usurper without a Title; Another *in Exercitio*, in practice, who though he hath a lawful Title, doth not govern according to the Rule and Constitution of the Kingdom. The first, *Quisque privatus resistet*, Every private Man may resist; *etiam si potest*

tſt e medio tollet, and if he can may cut his Throat; And as for the ſecond, *Hunc tollant vel pacifice, vel cum Bello, qui ea poteſtate donati ſunt, ut Regni* Ephori, *vel* omnium ordinum conventus *publicus*, Thoſe that have ſuch Authority, as the *Ephori* of the Kingdom, and Aſſembly of Eſtates, may either by Tryal or open War take him off.

Tho. Cartwright. [7.] *P.* 180.

The ſame *Cartwright* in his [7.] Reply to the Anſwer to his Seditious Admonition, ſays, it is true, we ought to be obedient to the Civil Magiſtrate which governeth the Church of God, in that Office which is committed unto him, and according to that Calling, but it muſt be remembred, that Civil Magiſtrates muſt govern it according to the Rules of God preſcribed in his Word, and that as they are Nouriſes, ſo they be Servants unto the Church, and as they Rule in the Church, ſo they muſt remember to ſubject themſelves to the Church, to ſubmit their Scepters, to throw down their Crowns before the Church; yea, as the Prophet hath it, *Iſaiah* 49. 23. to *lick the duſt off the feet of the Church.*

Anno Domini 1590, 1591. *Coppinger, Hacket*, &c.

The Treaſons and Conſpiracies of *Coppinger, Hacket, Arthington, Wiggington, &c.* were projected for the ſetting up the *Geneva* Diſcipline, and Reformation according to that Platform; and they were undertaken under pretence of an extraordinary call to it, and proſecuted (as they ſaid) by the aſſiſtance and inſpiration of the Holy Ghoſt; They and their Complices were to kill ſome of the Privy Counſellors in the Star Chamber, to deprive the Queen or Depoſe her, to remove evil Counſellors from her, and ſet up Gods Holy Diſcipline; All this is made out by their Letters, Examinations, and Correſpondencies in the fourth * Book of *Dangerous Poſitions*, from Chapter the fourth to the fifteenth; and 'tis very probable from the ſame, that the ſober Godly Party, ſuch as *Cartwright, Charke, Travers, Egerton, Gardner, Cooper, Phillips*, Sir *Peter Wentworth*, and *Lancaſter*, did at leaſt know of this Mad, Fanatical, Enthuſiaſtick Deſign, notwithſtanding they refuſed Conference with theſe Men, though happily not the very particulars of it; for know they muſt by their Letters to them, that they were enaged upon ſome wild, extravagant, deſperate Courſe, which they never revealed, but ſeemed therefore ready to take the advantage, if any happened, from the iſſue and ſucceſs of it.

* Printed 1593.

This reſtleſs Faction, notwithſtanding the fate of *Coppinger* and *Hacket*, of *Barrowe* and *Greenwood* afterwards, and then of *Udal*, and *Penry*, abated not in their Seditious Zeal for, and furious deſires of the Diſcipline and Religion of *Geneva*, and a Reformation of the Church of *England* according to that Platform, which they all affirmed to be according to the pure Word of God, but diſquieted the Queen with Petitions, made bold, and often Applications to Parliaments to that purpoſe, and endeavoured to ſeduce the People from their Obedience, by ſwarms of Seditious Libels, and Treaſonable Books, and Pamphlets; and during all the Reign of King *James*, they kept on the ſame courſe, both in *England* and *Scotland*, as likewiſe all the Reign of King *Charles* the Firſt; in the laſt ten years whereof, the Presbyterian Practices (who were then the main Body of the Diſſenters) were an exact Comment upon the Texts

and

and Aſſertions of their Brethren, both Domeſtick and Foreign, as well for the Depoſition as Murthering of Kings.

The Arguments they uſe to maintain theſe wicked, and deſperate, Treaſonable, and Rebellious Courſes, are clearly refuted and anſwered in the Replies and Duplies of the Miniſters and Profeſſors in *Aberdene*, concerning the Covenant, Printed by *Robert Young* the Kings Printer for *Scotland*, 1638. By *John Corbet* Miniſter of *Bonyl* in the Provoſtry of *Dunbarton*, in his Anſwer to the Information for Defenſive Arms againſt the King, drawn up at *Edinburgh* by the common help and induſtry of the three Tables of the Rigid Covenanters, of the Nobility, Barons, Miniſters, and Burgeſſes, with order they ſhould be read to, and urged by all Miniſters upon their Flocks, Printed at *Dublin* 1639. By Biſhop *Uſher* in his *Sacro-Sancta Regum Majeſtas*, Printed at *Oxford* in Quarto, 1644. and Re-printed in Octavo at *London*, 1680. and in Biſhop *Sanderſons* Lecture upon the famed Law and Sentence, *Salus populi Suprema Rex Eſto.* Let the ſafety and good of the People be the ſupream Law.

Their Brethren the Jeſuits, and many other *Romiſh* Divines hold the ſame Opinions, concerning the Reſiſting, Depoſing, and Murthering of Kings and Supream Magiſtrates, and uſe the ſame Arguments for proof of them; and therefore leſt the Presbyterians or Diſciplinarians ſhould take exceptions at me, for ſo great an omiſſion, and for being partial, I ſhall mention ſome few of their great numbers.

Dominicus Soto, of the Order of the Preachers, or a *Dominican* Frier, Profeſſor of Divinity at *Salamanca*, and the Kings Confeſſor, in his Book *De Juſtitia*, Printed there *Anno Domini* 1556. *lib.* 5. *artic.* 3. *f.* 389. after he had determined it was lawful, for any private Man to kill an Uſurper or Tyrant without Title, he ſays, *Atqui in ſecundo caſu, &c.* But in the ſecond Caſe, (meaning that of a lawful Prince, but Tyrant in Practice) the common Opinion is, No Man may kill him privately, The reaſon is, becauſe he hath Right to the Kingdom, he is not to be deprived of it, but by publick Sentence, that he may be heard what he can ſay for himſelf; but Judgment being pronounced againſt him, any Man may be his Executioner. *Dominicus Soto.*

Robert Bellarmin a Jeſuit and Cardinal, *Tom.* 1. *de Concil. lib.* 2. *cap.* 19. *f.* 1256. *col.* 2. *A.* Printed at *Ingolſtad* 1586. hath this Paſſage, *Si Rex degeneret, &c.* If a King degenerates into a Tyrant, although he be Head of the Kingdom, yet he may be Depoſed by the People, and another may be choſen. And in his Treatiſe *De Laicis*, his Opinion is, That, *Singulæ ſpecies Regiminis ſunt de Jure gentium, &c.* the kinds of Government are by the Right of Nations, not by the Law of Nature, for it depends upon the Conſent of the People to ſet over themſelves a King, Conſuls, or other Magiſtrates; and if there be a Lawful Cauſe (of which they will be Judges themſelves) the Multitude may change a Kingdom into an Ariſtocracy or Democracy, and ſo on the contrary, *De Laicis, lib.* 3. *c.* 6. *Tom.* 1. *f.* 1774. *Col.* 1. *B.* Cardinal *Bellarmin.*

Franciscus Fevardentius.

Franciscus Fevardentius, a Frier Minor, Doctor of Divinity, and Professor of the same at *Paris*, in his Comment upon the Book of *Hester*, Printed at *Colon* 1595. *p.* 86, 87. hath this Assertion; *Conventus legitimus Ordinum totius Regni, &c.* A Lawful Convention of the States of the Kingdom, which consists of Ecclesiasticks, Nobles, and Select Men of the People, when as they represent the Majesty, Power, and Face of the whole Kingdom, as a general Council of Bishops do Represent the whole Church, may Depose a pernicious King, a Tyrant, and an Enemy to Religion and the People, (of which things they will be judges) and set up another in his place; and in *p.* 90, *&c.* reckons up twelve things for which he may be Deposed: Heresie, Schism, Study, Use, or Approbation of the Magick Art, Perjury, permission of Assassinates, Simony, Sacriledge, violent strikeing of a Cardinal, violating of the publick Faith, Dissipation and wasting of the Publick Treasure, publick Tyranny, and for changing the Apostolick and Catholick Doctrine, *&c.*

A

B

Suarez.

Suarez another Jesuit says thus, *Potestas deponendi Regem potest esse in ipsa Republica, vel in summo Pontifice, &c.* The power of Deposing Kings, may be either in the Commonwealth it self, or in the Pope; In the Commonwealth alone for its necessary Defence and Conservation; and therefore if a Lawful King governs Tyrannically, and the Kingdom have no other remedy, but to expel and depose their King, the whole Commonwealth, by the Common Council of the Cities, and Nobles, may Depose him, *Defens. fid. Cathol. lib.* 3. *c.* 3. *Sect.* 3. *Tom.* 1. *fol.* 415. *col.* 2. Printed at *Ments* 1618.

C

And in another place he holds forth this Doctrine, *Postquam Rex legitime Depositus est, &c.* After a King is lawfully Deposed, then he is neither King nor Prince; and if therefore he endeavours to keep the Kingdom by force, then he is an Usurper; because not a Lawful King, having no true Title to the Crown; This is declared more fully in an Heretical King, for presently by Heresie he is in a manner deprived of his Dominion, and the Propriety of his Kingdom; after Sentence pronounced he is altogether deprived of his Kingdom, so as he cannot possess it by any just Title, and therefore he may be used as a Tyrant, and consequently may be killed by any private Man, *Ibid. lib.* 6. *c.* 4. *Sect.* 14, 18.

D

E

Gulielmus Estius.

William Estius or *Esty* Doctor in Divinity, chief Professor thereof, and Chancellor of the University of *Doway*, delivers his Opinion in the following words; *Proceribus & Populo alicujus Regni, &c.* The Nobility and People of some Kingdom may lawfully resist their Superior, unjustly oppressing his Subjects; The reason seems to be, for that there doth reside in the Nobility and People a publick Authority, by which they may vindicate themselves from Tyranny, and choose a Lawful Prince, and so deprive him of Dominion and Empire if there be cause for it; But it is not lawful for a private Person by force to resist his Superior, although a Tyrant, *Multo minus de medio tollere*, much less to kill him, In his Comment upon the four Books of Sentences, *Lib.* 2. *f.* 397. *Col.* 2. *D. E.* Printed at *Paris* 1662. *cum approbatione Doctorum & privilegio Regis*; with the Approbation of the Doctors of the Faculty, and Priviledge of the King.

F

This is directly the Doctrin of *John Calvin*, and the Presbyterians.

Leonard

Leonard Lessius a Jesuit, and a Professor of Divinity at *Lovain*, is of the same Opinion in his Book *De Justitia & Jure*, Printed at *Lovain* 1606. *Si tantum excrescat Tyrannus, &c.* If a Lawful Prince becomes so much a Tyrant as he is intolerable, and there remains no other Remedy, first he is to be Deposed by the Commonwealth, or Parliament, or any other having Authority, and declared an Enemy, and then he ceasing to be Prince, any thing may be attempted against his Person, *Ibid. lib. 2. c. 9. Disput. 4. Sect. 12.* *Leonardus Lessius.*

Petrus de Ledesma a Dominican Frier, and Professor of Divinity at *Salamanca*, and died 1616. In his Book of *Moral Theology*, *Tract. 8. cap. 18. p. 511.* Printed at *Tournay* 1637. declares himself against private killing of Kings, and cites *Cajetan* and *Thomas* for that Opinion; but if they grow Tyrants, (if it be not easie or convenient for the People to procure the Popes Authority) *poterit populus Conventum agere, &c.* the People may call a Meeting of the States, or a Parliament, and Depose such a King, and if need be, take away his Life.

Lodowic or *Lewis Molina*, a Jesuit, and Professor of Divinity at *Ebora* or *Evora*, an University in *Portugal*, in his Discourse *De Justitia, Tom.* 1. Printed at *Ments* 1616. is of the same Judgment, *Col.* 143. *n.* 16. *Non pertinet ad summum Pontificem Reges creare, & deponere, sed id pertinet ad Respublicas ipsas, Quarum est sibi Reges constituere, sic etiam est eos deponere, &c.* It belongs not to the Pope to Create Kings, or Depose them, that belongs to Commonwealths, who as they may Constitute to themselves Kings, so also they may Depose them, *postulante id recta ratione, occurrenteque justa & urgente causa*, upon any just and urgent Cause, right reason requiring it; which will never be wanting, according to the Judgment of the People. *Ludovicus Molina.*

Adam Tanner a Jesuit, and Professor of Divinity in the University of *Ingolstad*, in his third Tome of *Scholastick Theology* there Printed 1627. *Disput. 4. Quæst. 8. Dub. 3. n. 32, 33. col. 1236, 1237.* concurs with his Brethren, and gives his Reason for it, *Ratio est, Quia Respublica, &c.* the Reason is, That as the Commonwealth gave the Prince his Power, so they may take it away again, because the Commonwealth hath power of providing for themselves a Lawful Head, and such an one he is not, that from a Shepheard of the People, degenerates into a Wolfe. *Adam. Tanerus.*

John Mariana a *Spanish* Jesuit, in his Book *De Rege, & Regis Institutione*, Printed at *Ments* 1605. after having highly extolled the Fact of *Jacob Clement*, the *Dominican* Frier that Murthered *Henry* the Third of *France*, *Lib. 1. c. 6.* hath this passage, *p. 57. Certe à Republicâ unde ortum habet Regia potestas, rebus exigentibus, Regem in Jus vocari posse, &c.* Certainly the Commonwealth from whence Royal Power had its beginning, may call Kings to an Account upon urgent occasions, and if he refuseth to amend, may Depose him; for it never so transferred the Rights of Power to a Prince, but that it reserved a greater Power to it self, *p. 58. Qui vi & armis Rempublicam occupat, &c.* He that with Force and Arms seiseth a Commonwealth, and hath no other Title, doth truly and properly *John Mariana.*

properly bear the name of Tyrant, may be deſtroyed by any one, *p.* 59. *Nam ſi Princeps populi Conſenſu aut Jure hæreditario, &c.* For if Princes be Elective or Hereditary their Vices and Luſts are to be born withal, until they neglect the Laws of Modeſty and Honeſty, to which they are bound; but if they haraſs the Commonwealth, *&c.* then he propounds the degrees by which they are to be proceeded againſt. *Monendus inprimis Princeps erit, atque ad ſanitatem reducendus, &c.* A Prince is firſt to be admoniſhed, and brought to amendment, if he yields, gives ſatisfaction to the Commonwealth, and corrects the Vices of his former Life, he was to be reſiſted, and no other more ſevere means were to be tried; if he refuſed to receive Advice, and there was no hope of amendment, then Sentence may be pronounced againſt him, and he may be put from his Government; and becauſe War muſt neceſſarily follow, the Commonwealth may conſult about maintaining it, may take Arms, and Tax the People towards the Charge of it; and if the matter will bear it, and the Commonwealth can no otherwiſe defend it ſelf, may kill the Prince, being declared a publick Enemy, *p.* 60. *Eademque facultas eſto cuicunque privato, &c.* and every private Man may do it that hath thrown away all hopes of impunity, and hath the courage to ſtrike in, and reſcue the Commonwealth. But what if the opportunity or power of publick meeting be taken away from the People, as it may often happen? *Par profecto mea ſententia, judicium erit, &c.* in his Opinion there ſhall be the ſame Judgment, as when a Commonwealth is oppreſſed with Tyranny; for though the occaſion of Convening the People be taken away, yet their will of deſtroying Tyranny remains, and he that favouring thoſe publick Wiſhes ſhall attempt to kill him, *haudquaquam inique eum feciſſe exiſtimabo*, I ſhall think he did it not wickedly. *Neque periculum eſt ut multi eo exemplo in Principum vitam ſæviant, quaſi Tyranni ſint.* Nor is there danger that many may attempt the Lives of Princes, as if they were Tyrants; *Neque id quidem in cujuſquam privati arbitrio ponimus*, neither do we place it in the pleaſure of every private Man to judge who is a Tyrant, *non multorum*, nor in the opinion of many, *niſi publica vox populi adſit, viri eruditi & graves in Conſilium adhibeantur*, unleſs it be the publick Vogue of the People, approved by Grave and Learned Men. Thus far *Mariana.* The People that do thus reſiſt Princes, when they are once in Arms will be their own Judges, and whatever they ſay or publiſh, ſhall and muſt be, *Vox Populi*, the Vogue, and ſenſe too of the People, though they are not the tenth Man, (as will preſently appear in the Caſe and Murder of King *Charles* the Firſt) nor will they ever want Grave and Learned Men, (at leaſt in their own opinions) ſuch as Presbyterian Divines in the Reformed Countries, Friers or Jeſuits in the Countries which profeſs the *Romiſh* Religion, to adviſe and direct them, who, when, and what Princes are to be declared Tyrants, and what Rights and Royalties they are to claim as Fundamentally belonging to themſelves.

Or thus, If not the publick Voice of the People, Learned and Grave Men may be conſulted with.

James Keller. Diſperſed through his Treatiſe.

This Treatiſe of *Mariana* was Cenſured and burnt by Secular Authority at *Paris*, and diſallowed by Decree of the Colledge of *Sorbon.* But *James Keller* a *German* Jeſuit, in his *Tyrannicidium*, or Treatiſe *de Tyranni internecione*, of Tyrant-Killing, Printed at *Munchen* in *Bavaria* 1611. *Queſt.* 3. *p.* 38. & *Queſt.* 5. *p.* 51. ſays it was

was only becauſe he had extolled the Murther, or (as he calls it) only Slaughter of *Henry* the Third, King of *France*, and for a private Opinion which he publiſhed, that none of the Jeſuits, Friers, Schoolmen, or Writers of the Church of *Rome* had holden or defended before him, that is, *it was lawful for any private Man to kill a Prince that could not be brought to Trial, or was not formerly Abdicated and Depoſed by the People, or by them declared a Tyrant in publick Convention.* And ſays alſo, That the Colledge of *Sorbon* went no farther than the Council of *Conſtance*, *Seſſ.* 15. had done, which only condems the Aſſertion, That every Tyrant may, and ought lawfully, and meritoriouſly be killed by his Vaſſal or Subject, by Clancular Treachery, or ſubtil Inſinuation, notwithſtanding any Oath made to him, *Non expectata ſententia, vel mandato Judicis cujuſcunque*, without the Sentence or Command of any Judge whatſoever; as Erroneous in Faith and Maners, Heretical, Scandalous, making way for Frauds, Lies, Treaſon, and Perjury, *Concil. Conſtant. Seſſ.* 15. *Labbee. Tom.* 12. *col.* 114. C. D. Printed at *Paris* 1672. yet for the other Doctrine of a double Tyrant, one without Title, the other in Practice, with a lawful Title, as hath been ſaid before, he acknowledgeth it through the whole Tract, and avers it to be the Determination of all Schoolmen, Jeſuits, and others; and in his Title-Page calls it *Scitum Catholicum*, The Catholick Judgment or Law.

From the Hints of ſome old Schoolmen, and the Principles of of *Zuinglius* and *Calvin*, and from the moſt ancient of theſe Diſcourſes, the Treatiſe *De Jure Magiſtratus, &c. Junus Brutus* his *Vindiciæ, &c.* and *Buchanans* Dialogue *De Jure Regni apud Scotos*, Father *Parſons*, as will be evident to any Man that will compare them, gathered all the Materials of the firſt part of his Conference, about the next Succeſſion to the Crown of *England*, in which he endeavours to prove, That Propinquity of Blood, though it be certainly known, is not a ſufficient Title to the Crown, without other Circumſtances and Conditions, to be found in the Perſon Pretendent; firſt Printed in the year 1594. and reprinted at *London* 1681. (to ſerve a turn) with the ſecond part, which examineth the Titles and Pretenſions of all ſuch as might have Claim or Action to the Crown of *England*, what (as he pretends) may be ſaid againſt them, and what for them. This Book as [1.] *W. C.* tells us in his Reply unto a certain Libel ſet forth by Father *Parſons*, in the name of United Prieſts, Entituled, *A Manifeſtation of the great folly, and bad Spirit of certain in* England, *calling themſelves Secular Prieſts, &c.* Printed *Anno Domini* 1603. concerning the Book of Succeſſion, put out in the name of one *Dolman* a Secular Prieſt, the whole Work is nought elſe, but a deceitful Conference and Treatiſe to ſet up an old rotten, feigned Title; and no leſs a Deceit it ſeemeth to be, that he (ſpeaking of Father *Parſons*) would put it forth in the name of a Reverend ancient Prieſt in *England*, to bring him into danger for the ſame, *p.* 70. *b.* & 71. *a.*

[1.] That is, *William Clerke*, who was a Secular Prieſt.

See more of this matter in the places here cited.

The firſt [2.] Part is pretended to have been the Diſcourſe of a Civil Lawyer, and contains for the moſt part, in nine Chapters, the very Principles of Sedition and Rebellion, pretended to be proved and maintained by very many Texts and Examples out of Holy Scripture,

[2.] Title-Page.

Scripture, Examples out of *Greek* and *Latin* Hiſtorians, Examples in *France*, *Spain*, *Germany*, and other Nations. The *Engliſh* Examples and Inſtances generally are partially cited, or miſapplied, or not fully underſtood by the Author, and are matter of Fact only.

The Second Part is there ſaid to be the Speech of a Temporal Lawyer, about the particular Titles of all ſuch as might pretend within *England* or without, to the next Succeſſion after Queen *Elizabeth:* which according to his account, were ten or eleven; yet this Author ſays, (if any body will believe him) that this Treatiſe was wrote out of [3.] ſingular Devotion and Affection to that Excellent Princeſs, and with ſpecial care of her ſafety. A

[3.] In the Epiſtle Dedicatory.

It was Dedicated to the Earl of *Eſſex*, with deſign, after the Queen of *Scots* was taken off, [4.] to baffle the Title of King *James*, who was her immediate Heir; and either to fix it upon the Earl, (for whom he had made a Title) or to promote a Contention between the King and him about it, while by ſome means or other (which was the main intention) the Infanta of *Spain*, by a farfetcht, and only pretended Title, might obtain the Kingdom, and thereby advance their own Purpoſes and Religion. B

[4.] *Camden. Eliz. f.* 481, 482, 483.

To this end there were ſeveral Projects put in practiſe by Father *Parſons*, as we find them in *W. C.* whoſe words are theſe. [5.] And touching the Colledges and Penſions, that are maintained and given by the *Spaniard*, (which he ſo often inculcates) we no whit thank him for them, as things are handled, and occaſions thereby miniſtred of our greater Perſecution at home, by reaſon of Father *Parſons* treacherous Practiſes, thereby to promote the *Spaniards* Title to our Country; and his hateful Stratagems, with ſuch Scholars as are there brought up, inforcing them to ſubſcribe to Blanks, and by publick Orations, to fortifie the wreſted Title of the *Infanta*; Which Courſes cannot but repay us with double Injuries and Wrongs, for the Benefits received. C D

[5.] *P.* 52. *a.*

And in another [6.] place he tells us, for the proof of the Scholars being urged to ſubſcribe to Blanks, and to confirm the *Infanta* her Title to the Crown of *England*, is a matter very notorious and evident: we have divers Prieſts yet alive in *England*, to confirm the ſame by Oath, as well of them that were forced to ſubſcribe againſt their Wills, as others that openly refuſed the ſame; I do therefore wonder, to ſee the Mans unſhamefac't denial of ſo manifeſt and apparent Truth. E

[6.] *Ibidem, p.* 68. *b.*

And ſpeaking of this very Book of *Succeſſion*, he ſays, [7.] concerning the Book of Titles, to have been read in the Refectory in *Rome* (meaning of the *Engliſh* Colledge there, whereof Father *Parſons* was then Rector) in ſtead of a Spiritual Lecture, uſed to be read at ſuch times; There be divers yet that will depoſe the ſame againſt him; and Mr. *Lowbery*, now a Reverend Prieſt, was the Man ſhould have read the ſame, but he rejected it, utterly refuſing to meddle with ſuch Stuff. F

[7.] *P.* 69. *a.*

For

For his Practiſing with the Earl of *Eſſex*, *Watſon* another Secular Prieſt tells us in his *Quodlibets*, *p.* 150, and 189. Printed 1602. that Father *Parſons* ſent a Jeſuit Prieſt to the Earl of *Eſſex*, to have had him to take a Penſion of the King of *Spain* privately, for the advancement of his Deſignments, *&c.*

How juſtly this Book is Cenſured by the Judicious *Camden*, and branded with perfidiouſneſs, and deſign to delude, and abuſe the People, raiſe Tumults and Seditions; The Reader may ſee in his *Elizabetha*, *f.* 482.

In the year 1648. as a Preparative to the Depoſition and Murther of King *Charles* the Firſt, there was publiſhed a Pamphlet, and Printed at *London* by *Robert Ibbitſon*, Licenſed by *Gilbert Mabbot*, under the Title of *Several Speeches, delivered at a Conference concerning the power of* [8.] *Parliaments to proceed againſt their King for Miſgovernment*; And the Heads in the Title-Page, upon which theſe Speeches are pretended to be made, are in number nine, and the very ſame *verbatim* with the Titles of *Dolemans* nine Chapters in his firſt part of the Conference touching the Succeſſion to the Crown, and the matter and words of the Speeches themſelves, almoſt in all things, are the very ſame, except the Tranſitions, Connexions, and ſome few not material Paſſages, which are left out.

From theſe Diſcourſes of *Junius Brutus*, the Anonimous Author of the Treatiſe *De jure Magiſtratuum*, *&c.* the Dialogue of *Buchanon*, Book of *Mariana*, and Firſt Part of the Conferences of *Doleman*, which by crafty Men were publiſhed by Retail in ſeveral Pamphlets, Speeches, Declarations, Pernicious Deductions, *&c.* and from the nine Speeches laſt mentioned, all the *Factions* in the late times of Rebellion were furniſhed with Arguments, Reaſon, Examples, and Pretences for their Seditious Practiſes.

And the Suggeſtions of the Act for the Tryal of King *Charles* the Firſt, the Charge againſt him, and the Materials of the Speech *Bradſhaw* made to declare the grounds of the Sentence, and aggravate the things laid to his Charge, by miſapplying both Law and Hiſtory, were borrowed from theſe Presbyterian and Jeſuitical Books; as likewiſe was much of the moſt Seditious part of *Miltons* Book, Entituled, *The Defence for the People of* England.

And that the Charge againſt the King, and the words of *Bradſhaw* in the Trial were drawn up from theſe Seditious Diſcourſes, will beſt appear from themſelves, as they were examined by the Original Copy, with *Gilbert Mabbots* Imprimatur. On the 20th of *January* being *Saturday* 1648. *Cook* the Sollicitor ſpake thus to *Bradſhaw*, *My Lord, in the behalf of the Commons of* England, *and all the People thereof, I do accuſe* Charles Stuart, *here preſent, of High Treaſon, and High Miſdemeanors*; *And I do in the Name of the Commons of* England *deſire the Charge may be read unto him.* Which was in part as [9.] followeth;

That the ſaid Charles Stuart *being admitted King of* England, *and therein truſted with a Limited Power to govern by, and according*

[8.] This is the common cheat, to call the two Houſes, or a prevailing Party in the two Houſes, or in one Houſe, a Parliament; So it was in the Reign of *Edward* the Second, *Richard* the Second, and *Charles* the Firſt, That Rebellious reſtleſs Faction that Murthered them when they were Priſoners called themſelves a Parliament: when as nothing can Conſtitue a Parliament, but the King, Lords Spiritual and Temporal, and Commons, all aſſembled in perfect freedom.

[9.] The Charge, *&c.* *p.* 3.

to the Laws of the Land, and not otherwise; And by his Trust, Oath, and Office, being obliged to use the Power committed to him, for the good and benefit of the People, and for the preservation of their Rights and Liberties; yet nevertheless, out of a wicked design to erect and uphold in himself an unlimited and Tyrannical Power to Rule according to his Will, and to overthrow the Rights and Liberties of the People, &c.

A

[1.] Narrative of the Proceedings, &c. p. 6.

And being brought to his Trial *Monday Jan.* 22. he demanded by what Power he was called thither. *Braaſhaw* Anſwers, [1.] *That if he had pleaſed to have obſerved what was hinted to him by the Court at his firſt coming, he would have known by what Authority; which Authority* (ſays he) *Requires you, in the Name of the People of* England, *of which you are Elected King, to anſwer them.* Which the King denied.

B

[2.] *Ibidem*, p. 12.

Bradſhaw. *Sir,* [2.] *I muſt interrupt you, which I would not do, but that what you do is not agreeable to the proceedings of any Court of Juſtice; you are about to enter into Argument and Diſpute concerning the Authority of this Court, before whom you appear as a Priſoner, and are charged as a high Delinquent,* &c.

C

[3.] *Ibidem*, p. 13.

Bradſhaw again in the ſame Page; *Sir, I muſt interrupt you, you may not be permitted, you ſpeak of Law and Reaſon, it is fit there ſhould be Law and Reaſon, and there is both againſt you. Sir, The Vote of the Commons of* England *aſſembled in Parliament, it is the* [3.] *Reaſon of the Kingdom, and they are thoſe that have given it Law, according to which you ſhould have Ruled and Reigned; Sir, you are not to diſpute our Authority, you are told it again by the Court; Sir, it will be taken notice of that you ſtand in Contempt of the Court, and your Contempt will be Recorded accordingly.*

D

Bradſhaw in the ſame Page; *Sir, You have offered ſomething to the Court, I ſhall ſpeak ſomething to you the ſence of the Court; Sir, neither you nor any Man are permitted to diſpute that point, you are concluded, you may not demur to the Juriſdiction of the Court, if you do I muſt let you know, that they over-rule your Demurrer; they ſit here by the Authority of the Commons of* England, *and all your Predeceſſors, and you are Reſponſible to them.*

E

[4.] *Ibidem*, p. 13.

The King. [4.] I deny that, ſhew me one Preſident.

[5.] *Ibidem*, & p. 14.

Bradſhaw. [5.] *Sir, You ought not to interrupt while the Court is ſpeaking to you; this point is not to be debated by you, neither will the Court permit it, if you offer it by way of Demurrer to the Juriſdiction of the Court, they have conſidered of their Juriſdiction, they do affirm their own Juriſdiction.*

F

[6.] *Ibidem*, p. 14.

The King. [6.] I ſay Sir, by your favour, that the Commons of *England* was never a Court of Judicature, I would know how they came to be ſo?

[7.] *Ibidem.*

Bradſhaw. [7.] *Sir, You are not to be permitted to go on in that Speech, and theſe Diſcourſes.*

After

After [8.] ſeveral days Altercation between the *King* and *Bradſhaw* about the Juriſdiction of the Court, which the *King* would not own, nor would Anſwer, *Guilty* or *Not Guilty*; *Bradſhaw* proceeded to declare the grounds of the Sentence, where he ſaid, *That the* **Barons** *of old, when the Kings plaid the Tyrants, called them to Account, and did* frænum ponere; *That if they did forbear to do their Duty now, and were not ſo mindful of their own Honour, and the Kingdoms, as the old* **Barons** *were, certainly the* **Commonalty** *of* England *would not be unmindful of what was their preſervation and ſafety; That this was not a Law of yeſterday, but of old; and that the Kings* **Oath** *implied as much: and where the People could not have any other Remedy, the Parliament were to do it, who were Ordained to Redreſs the Grievances of the People.*

[8.] Narrative of the Proceedings on the 27th of *January*, being the laſt day, *p.* 10, 11.

Then repeating out of *Doleman*, the trite Story of the *Ephori* and *Tribunes*, and ſome Examples of Kings of *France*, *Spain*, *Scotland*, and *England*, that had either been Depoſed or Murthered by their Subjects, or both. He ſays, *As for* [9.] **Succeſſion** *by Inheritance, it was plain from the Conqueſt, that of twenty four Kings, one half of them came in by the State; That the* **Oath** *at his Coronation did ſhew there was a Contract and Bargain made by the People.*

[9.] *Ibidem*, *p.* 13. All our Ignorant, Democratical Writers harp upon this String, and labour to perſuade the People, as much as they can, that this is an Elective Monarchy.

Who that reads this ſhort Account of the *Kings* Charge and Trial, can deny the Proceedings to have been according to the Methods of the Presbyterians and Jeſuits, or can deny that the leſſer part of the People, when in Arms, will make themſelves the greater? for the number of the *Commons* that paſſed their Act for the *Kings* Trial, were but forty ſix, not the tenth part of a Houſe of Commons duely Conſtituted; and if the People had been asked one by one, not one in an hundred would have conſented to the Kings Murther, or choſen ſuch Repreſentatives (if they might have had a free Choice) as would have conſented to it; and yet this Charge is drawn up, and urged againſt the King, as the Act of the *Commons*, and *all* the People of *England*. Or laſtly, Who can deny that they publiſhed for Law and Right, whatſoever they did or ſaid, though it were never ſo Treaſonable, Vile, or Wicked?

Alſo in the year 1655. at *London*, was Printed an Abſtract of *Parſons* his Book, containing the Subſtance and often the Words of it. The Chapters being divided into ſeveral ſhort Sections, with Titles to each of them; This bears the name of *A Treatiſe concerning the broken Succeſſion of the Crown of* England. To what end it was at that time publiſhed I cannot gueſs, unleſs to ſet up a Foreign Title, or make way for *Oliver Cromwell*'s Kingſhip.

And now lately there hath come forth a Pamphlet, under the name of *A Brief Hiſtory of the Succeſſion, collected out of the Records, and moſt Authentick Hiſtorians; for the ſatisfaction of the Earl of* H.

Much of the Materials of this Pamphlet, and moſt of the Hiſtory contained in it concerning the Succeſſion, are taken out of the Second Part of the Jeſuits Book, the Speeches, and Abſtract before mentioned; but this Authors induſtry leads him farther than *Polydor*

Virgil, who is mostly cited by his three Predecessors; and sometimes *Stowe* and *Hollinshead*. And for the making his Work more plausible and passable, and more readily to be received by his ordinary Readers, he takes very little notice of *Polydor*, (who pointed him to his Authors and Places) but cites *William* of *Malmsbury*, *Henry* of *Huntington*, *Simeon Dunelm.* *Ailredus Abbas Rievallensis*, *Brompton* and others, ancient Writers, in his *Saxon* Instances especially: whose Words, if faithfully cited, would have been of no use to him; for often, in the middle of the Sentences, and of Records he hath cited, he hath left out such Words and Matters as would have ruined the Design of his History. A Parallel of his Words, with the true Words of the Authors from whence he had them, will be given at the later end of this Treatise. A

Hence we proceed to the *Succession*; by a true History whereof, Men will be able to Judge what was the Government, and how the Crown hath Hereditarily descended for many Ages in this Nation: And though History is so deficient, and the many Rencounters, and Invasions of one anothers Territories, and Bickerings between the petty Kings and Governors of the *Saxons* in the time of the *Heptarchy*, the Succession cannot well be made out; yet (though not in all) we may be able to make out a Succession in the greatest, and most Illustrious Kingdom of them; which was that of the *West-Saxons*. B C

The Saxon *Succession.*

EGbert, who is commonly said to be the first *Saxon* Monarch, though he brought not the whole *Heptarchy* under his Power and Government, succeeded *Brihtric*, King of the *West-Saxons*. D

[1.] *Anno Dom.* 801. The Words of the *Saxon* Chronicle are these only; [1.] BEORHTRIC CYNING FORTHFERD & ECGRYHT FENG to WEST-SEAXANA RICE. Which words the Translator thus renders, Beorhtricus *Rex Occidentalium obiit*, Egbryhtus *Occidentalium* Saxonum *Regnum capessit*.

[2.] *Anno eod.* And [2.] *Florence* of *Worcester*, who strictly follows this Chronicle, says, *Rex Occidentalium* Saxonum Brihtricus *obiit* & Egbertus *successit*: That is, Brihtric *died, and* Egbert, *King of the* West-Saxons, *took the Kingdom, or succeeded him.* E

[3.] *Anno Dom.* 802. [3.] *Simeon Dunelmensis* says, *Defuncto Rege glorioso* Brihtrico *Occidentalis regni, suscepit post ipsius obitum Regnum & Imperium* Egbertus *Rex*, *Qui ex regali illius gentis prosapia exortus Diadema totius regni capiti imposuit.* F

[4.] *De Gest. Reg. fol.* 8. *a. n.* 10. [4.] *William* of *Malmsbury* is more particular in this matter, and reports the Jealousie *Brihtric* had of *Egbert*, *Quem solum regalis prosapiæ superstitem, validissimum suis utilitatibus obicem metuebat*, Franciam *fugandum curavit*. Who only of the Royal Line was left, and the greatest Check to his Design, he caused to fly into *France*.

[5.] *Nam*

[5.] *Nam & ipse* Brihtricus *& cæteri infra* Inam *Reges licet naturalium splendore gloriantes, quippe qui de* Cerdicio *originem traherent, non parum tamen linea regiæ stirpis exorbitaverant.* For though *Brihtric* himself, and the rest of the Kings since *Ina*, boasting of their Lineage, as drawing their Origin from *Cerdic*; yet they did not a little exorbitate from the true Royal Line. [5.] *Ibidem.*

A

The Pedigree of Egbert.

[6.] Egbertus *fuit filius* Ealmundi, Ealmundus Eafæ, Eafa Eoppæ, Eoppa *fuit filius* Ingildi: *Egbert* was the Son of *Ealmund*, *Ealmund* of *Eafa*, *Eafa* of *Eoppa*, *Eoppa* of *Ingild*, [7.] the only Brother of *Ina*, King of the *West-Saxons*; who left his Kingdom, went to *Rome*, lived a Monastick Life, and died Childless. [6.] *Chron. Sax. Anno Dom.* 854. *Flor. Wigorn.* 849. [7.] *Gul. Malm. fol.* 7. *a. n.* 30.

B

[8.] *Ethelwolfe* succeeded his Father *Egbert* in the Kingdom of the *West-Saxons*, and he gave to his other Son *Æthelstan* his Conquests, *Kent*, *East-Sex*, *Surrey* and *Sussex*; of which he made him King. [9.] *Malmsbury* saith thus; Ethelwolphus West-Saxonum *regno contentus, cætera quæ pater subjugaverat Appendicia,* Æthelstano *filio contradidit, qui quanto & quo fine defecerit incertum.* [8.] *Chron. Sax. Flor. Wigor. Anno Dom.* 836. [9.] *Fol.* 20. *a. n.* 30.

C

[1.] *Ethelwolph* by Will divided his Kingdom between his Sons *Ethelbald* and *Ethelbert*. [2.] To *Ethelbald* he gave *West-Saxony*, to the other *Kent*, *&c.* and by his Will gave the Kingdom of *West-Saxony* to his Sons *Ethelred* and *Elfred*, after *Ethelbald*'s Death, successively. [1.] *Malm. fol.* 22. *a. n.* 20. *& b. n.* 30. *Flor. Wig. A. Dom.* 855. [2.] *Chron. Sax. Anno Dom.* 854.

Ethelbald lived but five years, when *Ethelbert* possessed the whole Kingdom, *Ut justum erat*, says, [3.] *Asser*, *Florence* of *Worcester*, and *Simeon Dunelmensis*.

D

[3.] *Fol.* 4. *n.* 40. *Anno Dom.* 860.

[4.] *Ethelred*, third Son to *Ethelwolph*, and Brother to *Ethelbert*, succeeded him in his Father's Kingdom, who Reigned five or six years. [4.] *Flor. Wigor. Chron. Sax.* 866. *Malm. fol.* 22. *b. n.* 50.

[5.] *Alfred*, fourth and youngest Son of *Ethelwolph*, succeeded his Brother *Ethelred*. *Fratribus suis Secundarius fuit*: He was a Coadjutor, or Assistant to his other Brothers. *Asser. fol.* 7. *n.* 50. [5.] *Ibid. fol.* 23. *a. n.* 40. *Chron. Sax. Anno Dom.* 871. *Flor. Wg.*

E

To whom succeeded his Son [6.] *Edward*, called the *Elder*. [6.] *Ib. Anno Dom.* 901. *Malm. fol.* 25. *n.* 40.

To him succeeded his Son [7.] *Ethelstan*, EADWEARD CYNG FORTHFERD and ÆTHELSTAN his SUNN FENG to RICE. King *Edward* died, *Ejusque filius* Æthelstanus *capescit regnum*: And his Son *Æthelstan* succeeded in the Kingdom. [7.] *Chron. Sax. Anno Dom.* 925.

F

These being the usual *Saxon* and *Latin* Words by which the Succession is expressed.

[8.] *Florence* of *Worcester*, and *Simeon* of *Durham*, both say, *Rex* Edwardus *Sen. ex hac vita transiens* Æthelstano *filio regni gubernacula reliquit*: King *Edward* the Elder dying, left the Government of the Kingdom to his Son *Æthelstan*. [9.] *Malmsbury* says thus in the History of *Edward* the Elder; *Jussu Patris in Testamento* Æthelstanus [8.] Both in *An. Dom.* 924. [9.] *Lib.* 2. *cap.* 6. *fol.* 27. *a. lin.* 27.

ſtanus *in Regem acclamatus eſt:* By the Command of his Father, in his Will, *Æthelſtan* was proclaimed King.

By ſome *Æthelſtan* is affirmed to be a Baſtard, from the report of [1.] *William* of *Malmsbury*, in the Book and Chapters laſt cited: who tells us that one *Alfred*, a Man of [2.] great Inſolence, and his Faction, oppoſed *Æthelſtan*, upon pretence he was a Baſtard. *Occaſio contradictionis ut ferunt* (ſays the Hiſtorian) *quod Æthelſtanus ex Concubina natus eſſet:* The occaſion of Contradiction was, that *Æthelſtan* was born of a Concubine, as was reported. *Sed ipſe præter hanc notam, ſi tamen vera eſt, nihil ignobile habens:* But he had no other Mark of Ill upon him but this, if it were true. And telling the Story how King *Edward* the Elder (as it was reported) ſtole a Leap with a Shepherd's Daughter, by the help of his ſometimes Nurſe; of whom, it is fabled, he begat *Æthelſtan*; he ſays he had it from [3.] trite Tales and Songs; and that he related it not to defend the truth of it, but becauſe he would keep nothing from his Readers. Nor indeed is the Story credible; for the ſame Author in the ſame [4.] Chapter reports, that his Grandfather, famous King *Alfred*, in his Life-time wiſhed him a proſperous Reign, embracing him as a Child of great Hope, and excellent Behaviour, and Knighted him in his Childhood; putting on him a Scarlet Cloak, and girding him with a Belt ſet with Gems, and a *Saxon* Sword in a Golden Scabbard. This ſo wiſe and great a King as *Alfred* was, would never had ſaid and done to a Baſtard.

[1.] *Lib.* 2. *c.* 6.
[2.] *Ibid. fol.* 29. *lin.* 32.
[3.] *Ib. n.* 10.
[4.] *Ibid. fol.* 27. *l.* 28.

Æthelſtan Knighted by King *Alfred.*

A B C

[5.] *Edmund* his Brother ſucceeded *Æthelſtan* in the Kingdom.

After him [6.] *Edred*, third Brother to *Æthelſtan*, ſucceeded in the Kingdom, and was Conſecrated King by *Odo* Arch Biſhop of *Canterbury*. This was done in the Nonage of King *Edmund*'s Sons, when they were very young, and the Nation under great difficulties. The *Saxon* Chronology ſays, EADRED ÆTHELING his Brother FENG to RICE *regnum capeſſit. Florence* of *Worceſter*, Edredus *proximus hæres fratris ſuccedens regnum ſuſcepit.* [7.] *Malmsbury*, Edredus *tertius e filiis* Edwardi *regnum ſuſcepit. Simeon Dunelmenſis*, Edredus *frater* Edmundi *in regnum ſucceſſit.*

[5.] *Chron. Sax. Anno Dom.* 941. *Flor. Wig. Sim. Dunelm.* 940.
[6.] *Ib. Anno Dom.* 946.
[7.] *Fol.* 30. *a. n.* 50.

D

Edwy [8.] the Son of *Edmund* ſucceeded his Uncle *Edred:* He baniſhed *Dunſtan*, turned out Monks, and placed Secular Prieſts in Monaſteries; and [9.] was ſo diſpleaſing to the *Mercians* and *Northumbrians*, that they rejected him, and choſe his Brother *Edgar*; who alſo ſucceeded *Edwy* in the Kingdom of the *Weſt-Saxons.* [1.] Eadwigus *Rex* Kal. Octobris *obiit*, and *Edgar* his Brother FENG to RICE: *Edwy* died on the Firſt of *October*, and *Edgar* his Brother took the Kingdom. *Flor. Wigorn. Ab omni Anglorum populo Electus regnum ſuſcepit.* [2.] *Malmsbury*, Edgarus *adoleſcentulus ſedecem annorum regnum adipiſcit.*

[8.] *Chron. Sax. Flor. Wig. An. Dom.* 955.
[9.] Nothing of this Story in the *Saxon* Chronology.
[1.] *Chron. Sax. An. Dom.* 957.
[2.] *Fol.* 30. *b. n.* 40.

E F

Edward his Son, called the Martyr, ſucceeded him; *filiumque ſuum* [3.] Edwardum *& regni & morum hæredem reliquit:* And left his Son *Edward* Heir, as well of the Kingdom, as of his Vertues and Endowments. But there happening a Conteſt between him and his Brother about the Succeſſion, [4.] *Quidam Regis filium* Edwardum, *quidam*

[3.] *Chron. Sax. An Dom.* 975. *Flor. Wig.* 975. *Sim. Dunelm.* 975.
[4.] *Ibidem.*

quidam illius fratrem eligerunt, Ethelredum : *quam ob causam Archipresules* Dunstanus & Oswaldus *cum Co-episcopis, Abbatibus, Ducibusque quamplurimis in unum convenerunt*, & Edwardum, *ut pater ejus* præceperat, *eligerunt, Electum consecrarunt, & in Regem unxerunt* : Some elected *Edward*, the King's Son, some his Brother *Ethelred* : wherefore the Arch-Bishops, *Dunstan* and *Osvald*, with the Bishops, Abbats, and very many Noble-Men, being gathered together, A elected *Edward*, (as his Father had commanded) Consecrated and Anointed him King. [5.] This Contest was managed, and set on foot by *Elfrida*, second Wife to *Edgar*, and Mother in Law to *Edward*.

[5.] *Malms. fol.* 33. *b. n.* 40.

Who [6.] by her Contrivance being Murthered, was succeeded by his Brother *Ethelred*. FENG ETHELRED ÆTHELING his BROTHER to RICE : and *Ethelred Ætheling* his Brother enjoyed, B or possessed the Kingdom.

[6.] *Flor. Wigor. Anno Domini* 978. *Sax. Chron. An. Dom.* 978.

The *Danes*, ever since the beginning of King *Egbert*, having by continued Invasions, harassed, and grievously wasted and molested *England*, in the Reign of King *Ælfred*, by [7.] Pact and Bargain between him and *Guthrum*, enjoyed *East-Saxony*, or *Essex*, and the Country of the *East-Angles*, and a far greater part of this Nation, as many think. And in this King *Ethelred*'s Reign, *Swane*, King of C *Denmark*, with a great Army Invaded, and made himself Maste. of the whole Nation ; forcing *Ethelred* and his Wife *Emm*, Sister to *Richard*, second Duke of *Normandy*, with their two Sons, *Edward*, and *Alfred*, into that Country.

[7.] *Fæd. Ælfr. & Guthr. c.* 1. *Lamb. fol.* 36.

But [8.] *Ethelred* had a former Wife *Elgive*, Daughter of Duke *Thored* : By her he had many Sons ; of whom *Edmond* called *Ironside*, being the third, *Æthelstan* and *Egbert* dying without Issue, by D the [9.] Election of the *Londoners* and *West-Saxons*, succeeded his Father in the Kingdom.

[8.] *Ælfred. vit. Appen.* 7. *fol.* 216.

[9.] *Ingulph. fol.* 507. *b. lin.* 5.

Florence of *Worcester* says, again, after the death of *Ethelred*, the Bishops, Abbots, *Duces & quique Nobiles Angliæ*, met, and chose *Cnute* the Son of *Swane* ; but the *Londoners*, and that part of the Nobility which was with them, by one consent made *Edmund* King.

Anno Dom. 1016.

E

After [1.] several Battles fought, for the Soveraignty of the Kingdom, between these two Pretenders and their Adherents, being weary on both sides, they were persuaded to part the Kingdom between them ; which was done. But not long after *Edmund* died at *London* : The Arch-Traytor [2.] *Edric*, after he had caused *Edmund*'s Brother *Edwy* to be Murthered, advised *Cnute* to kill his two Sons also, *Edward* and *Edmund*. But he thinking it a great scandal, F and disgrace to him that they should be killed in *England*, sent them to his Friend and Confederate, the King of *Sweves*, to be slain ; who not complying with his desire, sent them to *Solomon*, King of *Hungary*, to be preserved : where *Edmund* died, and *Edward* Married *Agatha*, Daughter to *Henry* the *Roman* Emperor : by whom he had *Edgar Ætheling*, *Edmund*, *Christiana*, who all died without Issue ; and *Margaret*, Queen of *Scotland*, whose Daughter *Maud* was Married to *Henry* the First. After

[1.] *Ibid.*

[2.] *Ib. Anno Dom.* 1017.

After the death of *Cnute*, the *Londoners*, as [3.] *Ingulph* of *Croyland*, and [4.] *William* of *Malmsbury* do report, chose *Harold*; but the *English* had a mind to chuse *Edward* the Son of *Ethelred*, or at least *Hardecnute* the Son of *Cnute* by *Emme* his Wife, the Widow of King *Ethelred*, who was then in *Denmark*; and that he coming over, the Kingdom was divided between them; and taking Possession of his Share, returned into *Denmark*: and that *Harold*, in his absence, made himself Master of the whole Kingdom; who [5.] living only four years, after his death, both *English* and *Danes* sent for *Hardecnute* into *Denmark* to succeed him. The Author of the *Encomium* of *Emme* [6.] says, *Cnute* gave both this, and his other Kingdoms to his Son *Harde-Cnute*, by *Emme*.

Edward, [7.] by the Policy, Power, and Industry, chiefly of Earl *Godwin*, and *Livingus* Bishop of *Worcester*, was made King at *London*, and was Anointed King at *Wincheſter* by the Arch-Bishops of *Canterbury* and *York*, and almost all the Bishops in *England*. He being in *England* at the time of the death of his half-Brother *Harde-Cnute* [8.] was in a great streight, not knowing what to do, and thinking to retire into *Normandy*, as he was advised by the *Normans*, applied [9.] himself unto Earl *Godwin*, who minded him whose Son he was, and of his Right to the Kingdom; and agreeing to Marry his Daughter *Edgith*, and to other Conditions propounded to him, being forced by necessity to consent thereto, *Godwin* (a Council being immediately called) by his Reasons and Rhetorick, made him King. *Gul. Gemeticensis* [1.] saith, Hardecnutus *reliquit* Edwardum *fratrem totius regni Hæredem*: *Harde-Cnute* left *Edward* his Brother Heir of the whole Kingdom.

Ailred, [2.] Abbot of *Rievalle*, tells an idle Tale in the Life and Miracles of *Edward* the Confessor; that his Father, King *Ethelred*, being sollicitous about a Successor, though he had at that time two Sons, *Edmund Ironside*, and *Alfred*; yet in a great Convention of Bishops and Noblemen before him, and a great Concourse of ordinary People, by the Prescience and Direction of God Almighty, this *Edward* was chosen King while he was in his Mothers Womb. *Præbet electioni Rex consensum, læti præbent proceres Sacramentum, & inusitato Miraculo in ejus fidelitate jurarunt, qui utrum nasceretur ignorarunt*: The King consents to the Election, and the Noblemen joyfully; and by reason of an unusual Miracle, swear Fealty to him before they knew whether ever he would be born. He is the only Author of this Legend that I know of, and do think it a little too gross to be believed.

Edward the Confessor designed his Nephew, Prince *Edward*, the Son of *Edmund Ironside*, for his Successor; and in the thirteenth year of his Reign, nine years before he died, sent for him out of *Hungary*, where he then was in Banishment; but in a short time after he died at *London*, [3.] *Anno Dom.* 1057. Clito Edwardus *Regis* Eadmundi *ferrei lateris*, *filius*, *ut ei mandarat suus Patruus Rex* Edwardus *de* Hungaria, *quò multo anno in exilium missus fuerat*, Angliam *venit*, *decreverat enim Rex illum post se Regni hæredem constituere*, *sed ex quo venit parvo post tempore vita decessit* Londoniæ.

After

[3.] *Fol.* 509. *a. lin.* 2.
[4.] *Lib.* 2. *c.* 12. *Cnute* had also by *Emme*, a Daughter named *Gunhild*, Married to *Henry* 3d. Emperor of *Germany*, *Walsingh. Hypol. Neustr. f* 428. *n.* 10.
[5.] *Flor. Wigor. Anno Dom.* 1040.
[6.] *Fol.* 164. *c.*
[7.] *Flor. Wigor. Anno Dom* 1042, 1043.
[8.] *Malms. f.* 450. *n.* 10, 20.
[9.] *Gemet. lib.* 6. *c.* 9.
[1.] *Ibidem.*
[2.] *Col.* 372. *n.* 30, 40, 50.
[3.] *Sim. Dunelm. Col.* 189. *n.* 20.

After the death of *Edward* the Confeſſor, *Harold* [4.] *Throno Regio ſe intruſit:* And as *Ailredus* before cited hath it, [5.] *Quidam* Edgarum Adeling, *cui Regnum Jure hæreditario debebatur Regem conſtituere moliuntur, ſed quia puer tanto honore minus idoneus videbatur,* Haraldus *Comes, de genere Proditorum, cujus erat & mens aſtutior, & crumena fœcundior, & miles copioſor, ſiniſtro omine Regnum obtinuit:* Some endeavoured to make *Edward Atheling* King, to whom the Kingdom belonged by Hereditary Right: But becauſe he was a Child, and ſeemed not fit for ſo great Honour, Earl *Harold*, a crafty Traytor, being better furniſhed with Money and Soldiers, by ſiniſter Fate obtained the Kingdom. To the ſame purpoſe *Henry* of *Huntington* ſays, *Quidam* Anglorum Eadgar Adeling *permovere volebant in Regem*; Haraldus *vero viribus, & genere fretus Regni Diadema invaſit:* That is, Some of the *Engliſh* would have had *Edgar Atheling* King; but Harold, being well furniſhed with Forces, and aſſiſted by his Kindred, invaded the Crown, *f.* 210. *b. n.* 10.

[4.] *Ingulph. f.* 511. *b. n* 50.
[5.] *De Gen. Reg. Angl. Col* 366. *n.* 50.

From the various Expreſſions of the ancient Writers of the *Saxon* Story, concerning the Succeſſion, an unwary Reader would think the *Saxons* agreed not in one Rule of Succeſſion, or that they had no Rule at all. But whoever conſiders with underſtanding what here is ſaid, will find they had, and purſued a ſure Rule of Succeſſion; which was either Right of Blood, or the Nomination and Appointment of the preceding King: (as we hinted before) which Nomination by the *Saxon* Kings moſtly happened in the Minority or Nonage of their Children, and that only [6.] was thought and allowed Cauſe ſufficient, for the Father to prefer his Brothers Son before his own, or a Baſtard, *Ut Pater fratris filium proprio, vel etiam Nothum anteferret Germano*, before his lawful Iſſue. For by the ſubſequent Inſtances it will plainly appear, that the *Saxons* did in their Subjection, owning of, and ſubmiſſion to their Princes, acknowledge both Proximity of Blood, and Nomination of their Princes; often both, ſometimes only one of them; but never followed any other Rule.

[6.] *Vit. Ælfred. f.* 9. *l.* 4. *ſect.* 10.

Æthelwolph, the Father of *Elfred*, notwithſtanding by Proximity of Blood his Sons were his Heirs, yet [7.] bequeathed his Kingdom ſucceſſively to *Ethelbald* his Eldeſt, *Ethelred* his Third, and *Ælfred* his Fourth; having before given *Kent, Surrey*, and *Suſſex, &c.* to his Second Son *Ethelbert*: [8.] yet he ſucceeded *Ethelbald* in all his Dominions, and *Ethelred* and *Ælfred* both ſucceded him according to their Fathers Will, [9] notwithſtanding it is ſaid *Ethelbert* had two Sons, *Athelm* and *Æthelwald*. This Teſtament of *Ethelwolph* [1.] *Florence* of *Worceſter* calls *Epiſtola Hæreditaria.*

[7.] *Teſtam. Ælfr. Aſſer. f.* 22. *n.* 20.
[8.] *Flor. Wig. Anno Dom.* 860, 866.
[9.] *Vit. Ælf. f.* 9. *in Not.*
[1.] *Fol.* 584.

Edgar [2.] *filium ſuum* Edwardum *& Regni & morum hæredem reliquit:* Left his Son *Edward* Heir of his Kingdom and Endowments. *Archipreſules* Dunſtanus *&* Oſwaldus *cum Coepiſcopis, Abbatibus & Ducibus quamplurimis una convenerant, &* Edwardum *ut pater ejus præceperat, eligerunt, electum conſecraverunt, & in Regem unxerunt:* The Arch-Biſhops *Dunſtan* and *Oſwald*, with their Fellow-Biſhops, Abbats, and very many Dukes, or Prime Men, choſe *Edward*, as his Father had commanded, and Conſecrated and Anointed him King.

[2.] *Flor. Wig. Anno Dom.* 975. *Sim. Dunelm. Ibid.*

See the word *Electus* in *Gloſſar.*

Eligerunt here ſignifies no more than *Recognoverunt*, They acknowledged, owned, ſubmitted unto him as their King, as his Father had commanded, and by Will appointed.

This Kings Command was ſtricter than a *Conge D'eſlire*; where the King nominated the Perſon to be choſen Biſhop, and he is always accepted and owned by the Chapter; and yet they are ſaid to chuſe, though limited by the Kings Nomination. So in many Corporations and Bodies Politick, in this and other Nations, they have a Perſon nominated to them; and yet they are ſaid to chuſe him, though they can chuſe no other. A

[1.] *Sim. Dun. Flor. Wigorn. An. Dom.* 924.

Rex Edwardus *ſenior ex hac vita tranſiens*, [1.] *filio* Æthelſtano *Regni Gubernacula reliquit*: King *Edward* the Elder dying, left the Government of his Kingdom to his Son *Æthelſtan*.

[2.] *Malmſ. de geſt. Regn. l. 2. c. 6. f. 27. a. lin.* 27.

[2.] Æthelſtanus *juſſu patris in Teſtamento in regem acclamatus eſt*: After him, his Brother *Edmund* ſwayed the Scepter. B

[3.] *Flor. Wig. An. Dom.* 946.

Cui [3.] Edredus *proximus hæres fratri ſuccedens Regnum ſuſcepit*: To whom *Edred*, the next Heir, ſucceeded his Brother *Edmund*, and undertook the Government.

What next Heir could *Edred* be to his Brother *Edmund*, but a Teſtamentary Heir? when at that time he left two Sons, *Edwy* and *Edgar*, both ſmall Children, and both were Kings ſucceſſively, after their Uncle; whoſe Guardian he only was, though the Hiſtorian ſays he was his Brothers Heir. C

Yet *Edred* had the Title of a King, and perhaps might be Crowned too, (if any of the *Saxon* Kings were ſo) with the ſame Pomp and Celebrity that was uſed afterward. The * Sons and real Heirs of Emperors, Kings, Dukes, Earls, Barons, were not always in ancient times called Emperors, Kings, Dukes, Earls, or Barons; but many times their Title was, the Heir only of the Empire, Kingdom, Earldom, Barony, *&c.* during their Minority: and their Tutor, Governor, or Protector, or ſuch as had the Care of them, and the Adminiſtration of the Government, were ſometimes called Emperors, Kings, Dukes, Earls, and Barons, of ſuch Empires, Kingdoms, Dukedoms, Earldoms, and Baronies, until the Heir came of Age, and ſometimes alſo thoſe Curators, and Guardian Kings and Emperors were Anointed and Crowned. D E

* *Du Freſn* his Lexicon in the word *hæredes.*

Concerning this Teſtamentary Heir it is ſaid, *Viventis non eſt hæres*; for the Teſtator might alter his Will when he pleaſed. Theſe Teſtamentary Heirs were either *Scripti*, as when the Teſtament was written by the Teſtator: or *Nuncupati*, as when it was written by another, and Dictated by the Teſtator; or they were declared Heirs only before many Witneſſes without Writing; and without doubt often it happened that our *Saxon* Kings did only call together the Biſhops and Nobility, or ſuch of them as they pleaſed, and declared their minds concerning their Succeſſor. F

Cnutoni

Cnutoni *virorum digniſſimo* [4.] *pater* Swanus *Sceptrum commiſit Regale.* Swanus Danorum *Rex* Angliam *vi ſuo ſubjugabat imperio, moriens ejuſdem Regni* Cnutonem *Succeſſorem conſtituit: Swane*, King of *Denmark*, having ſubdued *England* by force; dying, appointed *Cnute* his Succeſſor in that Kingdom. [4.] *Encomium Emmæ, fol.* 164. B.

By *Emme*, Widow to King *Ethelred*, whom he had Married, and made his Queen, he had *Harde-Cnute* his Son: [5.] To him his half-Brother *Cnute* gave all that had been any ways under his Government. But *Harde-Cnute* being in *Denmark* when his Father died, whereof he had made him King, *Harold* poſſeſſed himſelf of *England.* [5.] *Ibid. c.*

Who was [6.] *Cnute*'s Son by a Concubine, or a Baſtard Son of a Maid-Servant brought into his Concubines Chamber, and impoſed on him by her. And for this reaſon *Elnoth*, Arch-Biſhop of *Canterbury* refuſed to Conſecrate him King, and to deliver him the Crown, and Scepter. [6.] *Ibid.* 174. A. B.

Harold being dead, [7.] *Harde-Cnute*, ſo ſoon as he was confirmed and ſetled in this Kingdom, called his half Brother *Edward* by his Mother *Emme* (afterward called the *Confeſſor*) out of *Normandy*, and cauſed him to live with him; who dying within two years, [8.] Edwardum *totius Regni reliquit hæredem*, left *Edward* Heir of the whole Kingdom. He could be no other than a Teſtamentary Heir, there being Heirs of the right Line, both of *Saxon* and *Daniſh* Blood, before him. [7.] *Gul Gem. lib. 6. c. 9.* [8.] *Ibidem.*

Rex Edwardus [9.] Robertum *Archiepiſcopum* Cantuariæ *Legatum ad* Gulielmum *Comitem* Normaniæ *a latere ſuo direxit, illumque deſignatum ſui Regni Succeſſorem tam debito cognationis quam merito virtutis, ſui Archipreſulis relatu inſinuavit.* [9.] *Ingulph. Hiſtor. f.* 511. *b. n.* 40.

King *Edward* ſent *Robert*, Arch-Biſhop of *Canterbury*, Envoy to *William*, Earl of *Normandy*, to let him know he was appointed his Succeſſor in his Kingdom, as well for that he was of his Kindred, as for his great Vertue.

With *Ingulph* agrees [1.] *William* of *Poictou*: and adds, the Succeſſion was given to him by *Edward*, *Cum Optimatum ſuorum aſſenſu.* [1.] *Fol.* 181. D. Theſe three laſt Authors were living at that time.

Harold [2.] going to *William*, Duke of *Normandy*, to releaſe his Brother and Nephew that were Hoſtages with him for his Father Earl *Godwin*'s Good Behaviour towards King *Edward*, he told *Harold* that King *Edward* had faithfully promiſed him, that if ever he ſhould be King, *Jus Regni in illum jure hæreditario poſt ſe transferret*: That he would, after himſelf, transfer the Hereditary Right of the Kingdom to him. Yet [3.] *Eadmer* ſays, *Juxta quod* Edvardus *ante mortem ſtatuerat, in Regnum ei ſucceſſit* Haraldus: according as *Edward* had appointed before his death, *Harold* ſucceeded him in the Kingdom. [2.] *Eadmer, f.* 5. *n.* 10. [3.] *Ibidem, n.* 40.

Florence of *Worceſter* [4.] ſays, Haraldus *quem Rex ante ſuam Deceſſionem regni Succeſſorem elegerat, a totius* Angliæ *primatibus ad regale Culmen electus eſt.* [4.] *Fol.* 632. *Anno Dom.* 1066.

[5.] *An. Dom.* 1066.

Simeon of *Durham* [5.] hath the same words.

Harold, whom the King had chosen his Successor before his Decease, was elected to the Royal Dignity by the chief Men of *England*. Here we see how the *Election* was bound and limited, by the Nomination of the Successor, by the Predecessor.

A

These are the words of *Florence* of *Worcester*, and such as follow him. Which notwithstanding, he certainly was a plain Usurper according to [6.] *Ingulph* of *Croyland*, and *Ailred Abbas Rieval.* and *Henry* of *Huntington* before noted, the Donation of *Edward* being a meer pretence.

[6.] *Fol.* 511. *b. n.* 50.

B

From *Egbert* the first *Saxon* Monarch, to *Ethelred* the last *Saxon* King, by Right of Blood, for the space of two hundred and sixteen years, we read not of many Elections: and where we do meet them, they are bound and limited by Proximity of Blood, or Nomination of the Successor by the Predecessor: And where the word Election, or any thing in that Sense is used, it signifies only a Recognition, and Submission.

C

The *Saxon* Expression concerning Succession and the Successor, is always the same. FENG to RICE, variously turned by Translators, *Regnum capessit* in the *Saxon* Chronology, which renders it *verbatim*; by others, *Successit, electus est, &c.* He took Possession of the Kingdom, He succeeded, He was chosen, *&c.*

D

The *Danish* Kings stayed not long here after *Swane* had Conquered the Kingdom; they all four Reigned not much above twenty five years, their best Title was the Sword: notwithstanding, they either brought hither the Custom of the Predecessor naming or giving the Kingdom to his Successor, as probably it might have been practised in their own Kingdoms; or used it as they found it here practised by the *Saxon* Kings.

E

The *Saxons* were very weary of the *Danish* Government, and without doubt, very forward to set up a King of their own Nation; yet the Donation of *Harde-Cnute* was as great a step for *Edward* the Confessor to the Throne, as the Power and Policy of Earl *Godwin* and *Livingus* the Bishop of *Worcester*.

F

Anno Dom. 1065. *fol.* 511. *b. n.* 30.

Ingulph, Secretary to *William* when Duke of *Normandy*, reports the Donation of *England* to him very confidently, and as if in those times such Gifts were not much questioned: *Anno eodem Rex* Edwardus *senio jam gravatus, cernens Clitonis* Edwardi *nuper defuncti* Edgarum, *Regio solio minus idoneum tam corde quam corpore*, Godwinique *comitis multam malamque sobolem, quotidie super terram crescere, ad cognatum suum* Willielmum *Comitem* Normaniæ *animum apposuit, & eum sibi succedere in Regnum* Angliæ *voce stabili sancivit*: In the same year, King *Edward* growing infirm with Age, perceiving *Edgar*, the Son of the late deceased *Edward Ætheling*, neither in Mind, or Body, fit for the Government, nor to bear up against the growing Power and Malice of *Godwin*'s Sons; thought upon his Cousin *William*, Earl of *Normandy*; and by a firm Declaration decreed he should

ſhould ſucceed him in the Kingdom. King *Stephan* declares the ſame thing in his * Charter of Priviledges to *Weſtminſter* Abby; *Stephanus Dei Gracia Rex Anglorum, &c. Sciatis me, pro Redemtione Animæ meæ, & patris, & matris meæ, necnon & Beatæ memoriæ* Regis Edwardi *Cognati mei, Qui* Avum meum Liberoſque illius *in Regnum ſuum* adoptivos heredes *inſtituerat.* *Stephen* King of *England, &c.* Know ye, that for the Redemption of my Soul, and the Soul of my A Father and Mother, and of my Kinſman King *Edward* of Bleſſed Memory, who Conſtituted my Grandfather, (*William* the Conqueror) and his Children *Adoptive Heirs* of his Kingdom.

* *Ex autographo.*

The Norman *Succeſſion.*

B

FRom what hath been ſaid, the Pretences and Cauſes of *William*, Duke of *Normandy*, his ſucceeding *Edward* the Confeſſor, and enjoying the Crown of *England*, are very evident; as alſo, are the ſame to his Dukedom. [1.] He was the only Son of his Father *Robert*; who going on Pilgrimage to *Jeruſalem*, called together the Noblemen of his Dukedom, and brought his Son *William*, though Illegitimate, before them, and earneſtly exacted of them, that in his C ſtead they would chuſe him their Lord: who, though but a Child, they forthwith, according to the Decree of the Duke, acknowledged him for their Prince and Lord, ſwearing Fealty unto him. [2.] Robertum *ergo Archiepiſcopum cum optimatibus ſuis Ducatus accerſivit, & illis velle ſe appetere* Jeroſolimitanam *pergrinationem manifeſtavit, exponens autem eis* Willielmus *filium ſuum, quem unicum apud Faleſiam genuerat ab iis attentiſſime exigebat, ut hunc ſibi loco ſui dum eligerent, Qui licet ſub tenerrima detineretur ætati puerili juxta Decretum Ducis protinus cum prompta viracitate collaudavere Principem & Dominum, pangentes ei fidelitatem non violandis Sacramentis.* And *R. Hoveden* affirms it to have been the Cuſtom in *Norway* (from whence the *Normans* came) for Baſtards to inherit, and that in his time it was ſo. [3.] *Conſuetudo Regni* Norweiæ *eſt uſque in hodiernum diem, quod is qui alicujus Regis* Norweiæ *dignoſcitur eſſe filius, licet ſit ſpurius & de ancilla genitus, tantum ſibi jus vendicat in Regnum genitus, & ideo fiunt inter eos prælia indeſinenter, donec unus eorum* E *vincatur, & interficiatur.* And ſo it happened between the Curators of Duke *William* in his Nonage, and the Petenders as Heirs to his Grandfather of the Dutchy of *Normandy*.

[1.] *Gul. Gem. lib. 5. c. 12.*

[2.] *Ibid.*

[3.] *R. Hov. f. 425. a. n. 20.*

The ſame Right of Succeſſion, as Teſtamentary Heir to his Father, *William Rufus* had to the Crown of *England*. [4.] *Metuens Rex ne in Regno tam diffuſo repentina oriretur turbatio, epiſtolam de conſtituendo Rege fecit* Lanfranco *Archiepiſcopo ſuoque ſigillo ſignatam tradidit* Gulielmo Rufo *filio ſuo, jubens ut in* Angliam *tranfretaret continuo.*

[4.] *Fragm. de vita Gul. Conqueſtore, f. 32. n. 30. Ord. vit. fol. 659. C. D.*

This was done a little before the Conquerors [5.] Death: and he did it for that his Son *William* always ſtuck cloſe to him, and had in every thing, according to the utmoſt of his power, been dutiful and obedient.

[5.] *Ibid. n. 20, 40. Ord. vit. ut ſupra.*

[6.] *Rufus*

[6.] *Ib. f.* 663. B.

[7.] *Flor. Wig. f.* 642.

[8.] *De geſt. Reg. f.* 67. *n.* 20. *Paris, f.* 14. *n.* 10.

[9.] It was then the Cuſtom for Biſhops to make Knights. *September* 27. *f.* 642. *Anno Dom.* 1088.

[1.] *Malmſ. ut ſup. lin.* 49.

[2.] *Flor. Wig. ut ſupra.*

These *Engliſh* were Stipendiary Soldiers, *Paris, f.* 15. *n.* 10.

[6.] *Rufus* brought his Fathers Epiſtle, by which he had Conſtituted him King of *England*, to *Lanfranc* Arch-Biſhop of *Canterbury*: who, having read it, haſted with him to *London*, and Conſecrated him King in the old Church of St. *Peter* at *Weſtminſter* on the [7.] 26th. of *September*, his Father dying the 9th. of the ſame Month. [8.] Willielmus Willielmi *filius*, ſaith *Malmsbury*, *a patre ultima valetudine decumbente in Succeſſorem adoptatus eſt, acceſſit & favori ejus maximum rerum momentum, Archiepiſcopus* Lanfrancus, *eo quod eum nutrierat, & militem fecerat: quo Authore annitente, Die Sanctorum* Coſmæ & Damiani *Coronatus eſt.* That is, *William* the Son of *William* was by his Father, in his laſt Sickneſs, adopted his Succeſſor: but it was matter of great moment, and the greateſt Addition to his Succeſs, that Arch-Biſhop *Lanfranc* had Educated him, and made him a [9.] Knight; by whoſe Authority and Endeavour he was Crowned on the day of *Coſma* and *Damianus*.

Florence of *Worceſter*, who only ſays that he was Conſecrated King at *Weſtminſter* by Arch-Biſhop *Lanfranc*, hath noted, that not long after his Coronation there aroſe great Diſcord and Contention between the chief Men of *England*: for part of the Great and Noble *Normans* favoured King *William*, but it was the leaſt; and the other part of them favoured *Robert* Duke of *Normandy*, which was the greateſt. *Odo*, who [1.] mortally hated *Lanfranc*, headed the Duke's Party, and *Lanfranc* headed the King's; who, with the King, [2.] *Congregato quantum ad preſens poterat* Normanorum, *ſed tamen maxime* Anglorum, *equeſtri & pedeſtri (licet mediocri) exercitu, &c.* Having raiſed ſuch an Army as he could of Horſe and Foot of *Normans*, but the greateſt part *Engliſh*; (though but a mean one) and by uſing the common Bait of Liberty, declaring he would relax the rigid Laws, give free leave of Hunting, *&c.* Alſo by inſinuating into *Roger* Earl of *Arundel* and *Shrewsbury*, the chief Perſon for the Duke, next unto *Odo* Biſhop of *Baieux* and Earl of *Kent*, brought him off to his Party. By theſe means he brake the Force of his Enemies, and ever after ruled by an Army. More of this Story may be ſeen in *Eadmer. Ord. Vit. f.* 666. *&c. Florence* of *Worceſter*, and *Malmsbury*, in the places before cited, who all lived at the time.

Here we ſee *Rufus* claimed as Teſtamentary Heir; * and by reaſon of that Claim was advanced to the Throne, by the Aſſiſtance of *Lanfranc*'s and the Biſhops Faction, who then ſwayed the People, and ruled by the help of an Army ever after. Whoever rightly conſiders this Story, cannot call it an Election.

* The Conqueror by his Will, gave *Normandy* to his Eldeſt Son *Robert*, and *England* to his Second Son *William*. It was a frequent and common practiſe of the great *Normans* that had great Eſtates both in *England* and *Normandy*, to leave their ancient Eſtates in *Normandy* to their Eldeſt Sons, and their Eſtates in *England* to their ſecond or younger Sons; as *William Fitz-Oſbern*, *Roger de Monte-Gomerico*, *&c.* *William* the Eldeſt Son of *William Fitz-Oſbern* Earl of *Hereford*, *&c.* had *Breteul* or *Bretevile*, (from whence he was called *William de Bretteville*) and all his Fathers Lands in *Normandy*, and his ſecond Son *Roger* was Earl of *Hereford*, and had all his Lands in *England*. So *Robert de Beliſmo* Eldeſt Son to *Roger Montgomery* had *Beliſm* Caſtle, and all the Lands and Caſtles which were his Fathers in *Normandy*, and his ſecond Brother *Hugh* had the Earldoms of *Arundell*, and *Shrewsbury*, with all his Fathers Lands and Honours in *England*, which alſo *Robert* enjoyed after the death of his Brother *Hugh* without Iſſue.

After

After the death of *Rufus*, *Florence* of *Worceſter* only ſays, that *Henry*, his third Brother ſucceeded him; and that the day he was Crowned by *Maurice* Biſhop of *London*, he gave great Liberties to the Church and Kingdom; and commanded that King *Edward*'s Laws ſhould be obſerved, with ſuch Amendments as his Father had amended them. And further ſays, [3.] that very many great Men ſent for Duke *Robert* over, and promiſed him the Crown and Kingdom: and coming, they did ſome of them adhere to him, and [4.] others, diſſembling their Kindneſs and Affection, ſtayed with King *William* until they had an opportunity of ſhewing it. But the Biſhops, the Common Soldiers, and *Engliſh* ſtuck cloſe to King *Henry*; by whoſe means he raiſed a very great Army, and were ready to fight for him; when they came to an Agreement by the Mediation of the Wiſe Men of both Parties.

Fol. 650. *l.* 9. *Flor.* of *Wor.* died 19 *Hen.* 1.

[3.] *Ibidem, lin.* 27.

[4.] *Ibidem, lin.* 41.

Eadmer tells us, that moſt of the great Men either did, or were ready to revolt from King *Henry*; but *Anſelm* Arch-Biſhop of *Canterbury*, who had given him great Aſſiſtance in raiſing his Army, upon great *Promiſes* made, that all the Church-Affairs ſhould be left to his direction and diſpoſing, and that he would for ever after obey the Decrees and Commands of the Pope, procured the great Men to aſſemble; and then ſo wheedled and cajoled them and their Army, that he altered their Intenſions: And it was from his Fidelity and Induſtry that *Henry* loſt not the Kingdom.

Fol. 59. *n.* 10, 20, 30.

Eadmer was *Anſelm*'s Chaplain at this time.

This King *Henry* was a plain right down Uſurper, he had no pretence of Donation, no Teſtamentary Right from his Father; and therefore, as [5.] *Malmsbury* ſhews us more particularly, he was advanced by a Faction; there being only five great Men, *Robert Fitz-Haymon*, *Richard de Redvers*, *Roger Bigot*, *Henry* Earl of *Warwick*, and *Robert* Earl of *Mellent*, his Brother, all *Normans* that favoured him: and by the contrivance of *Henry* Earl of *Warwick* he was elected King. All others ſent privately to Duke *Robert* to come and be their King, or openly reproached *Henry*. This was an excellent Election made by a Faction and an Army, and perhaps with a bawling multitude after them; and indeed, there could be no other Election than ſuch an one as this, for *Rufus* was ſlain in *New Foreſt* on the 2d. of *Auguſt*, being *Thurſday*; and *Henry* was Crowned on the 5th. of *Auguſt*, being *Sunday*: So that it was impoſſible for all that were, or ought to be concerned in ſuch an Election, all the Kingdom over to have notice, meet, and diſpatch that Buſineſs in two days time.

[5.] *Fol.* 88. *a. n.* 20, 40.

Flor. Wigorn. f. 649. *l.* 27.

Theſe Hiſtorians lived at the very time theſe things were done. It is true he ſays in his own Charter, [6.] That he was Crowned King by the Common Council of the Barons of *England*. *Sciatis me miſericordia Dei, & Communi Concilio Baronum Regni* Angliæ *ejuſdem Regni Regem Coronatum eſſe*. And he muſt ſay this, or nothing; for no other Pretence or Title he could have; and there never was any other Uſurper in his Circumſtances, but muſt ſay ſo, or ſome other thing, to make out a Title. King *Stephen*, in his Charter of Liberties, ſays, He was elected, *A Clero & Populo*. King *John*, in his Charter of *Fees of the Seal*, affirmed himſelf right Heir to the Crown, when *Arthur* Duke of *Britain*, and his Siſter *Eleanor*, Son and Daughter to his Elder Brother *Jeffrey*, were then living: and they

[6.] *Paris, Anno Dom.* 1200. *fol.* 55. *lin.* 42.

they were both vain Affirmations, as will appear in their ſeveral Stories.

[7.] *Paris* died, *An. Dom.* 1259. *Brompton*, 1326. *Weſtminſter*, 1377. *Knighton*, 1380.

Some later Hiſtorians than theſe, as [7.] *Matthew Paris*, who wrote above an hundred years after them. *Mat. Weſtminſter*, and *Hen. de Knighton*, and *Brompton*, who wrote at leaſt two hundred and fifty years after them; all ſay he was elected: But only *Knighton*, amongſt them all, tells us the moſt conſiderable reaſon why *Robert*, his elder Brother, was rejected. [8.] Robertus, ſays he, *ſemper contrarius & adeo innaturalis extiterat Baronibus Regni* Angliæ, *quod plenario conſenſu & conſilio totius Communitatis Regni* IMPOSUERUNT EI ILLEGITIMITATEM, QUOD NON FUERAT PROCREATUS DE LEGITIMO THORO WILLIELMI CONQUESTORIS, UNDE UNANIMI *aſſenſu ſuo ipſum refutaverunt, & pro rege omnino recuſaverunt &* Hen. *fratrem in Regem erexerunt.* *Robert* was always averſe, and ſo harſh to the Barons of *England*, that they, by full Conſent and Advice, voted him *Illegitimate, becauſe he was not begotten lawfully by* William *the Conqueror*; *and for that reaſon*, by unanimous Aſſent, they refuſed him, and ſet up *Henry* his Brother to be their King. From this Paſſage of *Knighton*, we ſee the Community, or Baronage of all *England*, fixed the Right of Succeſſion in the Legitimate Right of Blood; and therefore this King, his two elder Brothers being dead without Iſſue, deſired to ſecure the Succeſſion unto his Lawful Iſſue by Right of Blood. To that end, [9.] all Freemen of *England* and *Normandy*, of what Order and Dignity ſoever, and of *whatſoever Lord they held, or were Fendataries to*, were forced to *do Homage*, and *ſwear Fealty* to his Son *William*, then but twelve years old.

[9.] *Malmſ. fol.* 93. *a. lin.* 36.

[1.] *Ibid. fol.* 99. *a. n.* 40.

[2.] *Ibidem.*

And in the [1.] twenty ſeventh of his Reign, he cauſed all the great Men of *England* (after the death of his Sons, *William* and *Richard*) to recognize *Maud* the Empreſs, his Daughter, Queen; *to whom the* [2.] *only Lawful Succeſſion was due from her Grandfather, Uncle, and Father that were Kings*; and from her Mother many Generations.

[3.] *Malmſ. f.* 100. *a. n.* 40.

In the thirty firſt of King *Henry*, [3.] he and his Daughter coming into *England*, at a great Meeting of the Nobility, or Parliament, at *Northampton*, thoſe which before had ſworn Fealty, renewed their Oaths to her; and thoſe which had not done it before, then did it.

[4.] *Paris, f.* 61. *n.* 50. *f.* 62. *n.* 10, 20. [5.] *Ibid.* 61. *lin. ult* 62 *lin.* 1. *&c. ibid. lin.* 23. [6.] *Ibid. f.* 63. *n.* 10. [7.] *Ibid. f.* 73. *n.* 20.

Paris tells us, that the Clergy, and Great or Noble Men made Conditions with *Henry*; who promiſed them what is before related: and in that gave them ſatisfaction. But as all Uſurpers ever did, ſo he changed his Mind; and his Canting Speech had no other effects than to enſlave them: [4.] for with a ſeared and cauterized Conſcience he had obtained the Kingdom, and uſurped upon his Brother *Robert*, who had manifeſt Right; [5.] impudently violating the Laws, and Promiſes, by which he had drawn in all Men to ſerve him: and afterward, taking him Priſoner, cauſed his Eyes to be [6.] pulled out, and kept him in Priſon [7.] twenty four years, until he died.

[8.] King

[8.] King *Henry* having thus provided for the Security of his Daughter *Maud*, being asked in his Sickneſs by *Robert* Duke of *Gloucester*, and the Noblemen that then were with him, about a Succeſſor. *Filiæ* [9.] *omnem terram ſuam citra & ultra mare, Legitima & perenni ſucceſſione adjudicavit.* Adjudged his Daughter his Lawful Succeſſor in all his Territories.

[8.] *Malmſ. Hiſt. Novel. f.* 100. *b. n.* 30.

[9.] *Vid hic f.* 105. *b. n.* 40. *Omne Regnum Angl. ſimul & Ducatum Normaniæ.*

A [1.] *Radulphus de Diceto*, Dean of Saint *Paul*'s, who died, *Anno Dom.* 1210. ſays, that *Hugh Bigot*, Steward of the Kings Houſhold made ſpeed out of *Normandy* (where the King died) into *England*, and *made Oath before the Arch-Biſhop of* Canterbury; *that King* Henry *upon his Death-bed, upon ſome differences which happened between him and his Daughter the Empreſs, did diſ-inherit her, and made* Stephen *Earl of* Boloign *his Heir.* Whereupon *William* Arch-Biſhop of *Canterbury* giving too much credit to the words of the Steward,

B Conſecrated *Stephen* Earl of *Mortaigne* King at *Weſtminſter.* If this Story be true, he was Teſtamentary Heir, and had a Teſtamentary Right; and in that Right he was made King: But be this Story true or falſe, his Advancement to the Throne was as followeth.

[1.] *Pitſius* in that year, *Col.* 505. *n.* 40, 50. King *Stephen.*

Notwithſtanding, all the Nobility, and amongſt them, King *Stephen* himſelf, had ſworn Fealty to *Maud* the Empreſs; yet by the

C Intereſt of his Brother [2.] *Henry* Biſhop of *Wincheſter*, and the Popes Legat, (without which he could have done nothing) he was made King: he brought off *Roger* Biſhop of *Salisbury*, a great and powerful Prelat; alſo *William de Pont-Arch*, Keeper of King *Henry*'s Treaſure, which was [3.] 100000 *l.* in Money. And by his own Dexterity, the Artifice of his Brother, and *Roger* Biſhop of *Salisbury*, and the advantage of this Money, he enclined the minds of

D the Noblemen much towards him, and to ſecure himſelf raiſed an Army moſtly of *Flemings* and *Britains.* At his [4.] Coronation were only three Biſhops, the Arch-Biſhop of *Canterbury*, the Biſhops of *Wincheſter* and *Salisbury*, no Abbots, and few Noblemen.

[2.] *Malmſ. Hiſtor. Novel. f.* 101. *a. n.* 10.

[3.] *Ibid. n.* 40, 50.

[4.] *Ibidem, n.* 20.

I think this looks not like an Election; [5.] yet he in his Charter of Liberties, which he chiefly granted to the Church, ſays, he was elected by the Aſſent of the Clergy and Laity, and confirmed by the Pope; though in his Charter of Priviledges to *Weſtminſter*-Abby, he

E ſays, that his Grandfather, the Conqueror, and his Children were Adoptive Heirs of *Edward* the Confeſſor.

[5.] *Ibidem, 101. b. n.* 10.

Malmsbury recites the whole Charter, and although King *Stephen* ſays there, of himſelf, *Ego* **Stephanus** *Dei Gracia, aſſenſu Cleri, & Populi in Regem Angliæ Electus, &c.* I *Stephen* by the Grace of God, elected King of *England* by the Clergy and People. Yet the Hiſtorian, within two Lines after the Recital of the Charter, hath this Paſſage, wherein he affirms, *Stephen* came not lawfully to the

F Crown; * *Liceat mihi pace Manſuetiſſimi hominis, verum non occulere: Qui ſi legittime fuiſſet Regnum ingreſſus, & in eo adminiſtrando, credulas aures malevolorum ſuſurris, non exhibuiſſet, parum ei profecto ad Regiæ perſonæ decorem defuiſſet:* By the leave of a moſt mild Man, I my juſtly diſcover Truth. If he had lawfully poſſeſſed the Kingdom, and in his Government had not liſtned to the Whiſpers of Evil Men, as to the Comelineſs of his Perſon, he might have been a King.

* *Ibid. n.* 40. *lin.* 44.

Afterwards, *Stephen* using the Bishops roughly, lost his Brother *Henry*'s favour; who by his Legantine Power, [6.] called a Council of the Clergy at *Winchester*, to consult of the Peace of the Kingdom: Where they conclude, that the Right of chusing and Ordaining Kings chiefly belonged to them. And therefore, having first called upon God, they chose *Maud* the Empress Queen. [7.] *Ad Cleri jus potissimum spectat principem eligere & ordinare, invocata itaque in auxilium Divinitate, filiam Regis, in* Angliæ Normanniæ*que Dominam eligimus, &c.*

[6.] *Ibidem*, 105. *b. n.* 20, 30, 40. *Malmsbury* says he was present in this Council.
Ibid. lin. 26. *Maud* the Empress.
[7.] *Ibid. f.* 106. *a. lin.* 1, 2, 3.

A

But not long after, [8.] being displeased with *Maud*, he entred into a Confederacy against her; and, [9.] as Legat, called another Council at *Westminster*, in which was read the Popes Bull in favour of *Stephen*; who was then advanced to the Throne again. And the Kingdom being wasted and destroyed with continual Wars, [1.] the Arch-Bishop, this Legat, and the Bishops mediate a Peace between *Stephen* and *Henry* Duke of *Anjou*, Son to the Empress: by which it was agreed, that *Stephen* should adopt *Henry* his Son, who, after his death, should enjoy the Crown, and *Stephen* quietly to wear it during his Life, *&c.*

[8.] *Ibid. f.* 107. *n.* 10, 20, 30, 40.
[9.] *Ibid. f.* 108. *a. n.* 30, 40, 50. *Hen.* 2d.
[1.] *Gervas Dorob. Col.* 1375. *n.* 10. *Paris, f.* 86. *n.* 10. *Hoveden, f.* 281. *a. lin.* 21.

B

Which Agreement is most fully and clearly related by *Matthew* of *Westminster*: [2.] *Rex* Stephanus *omni hærede viduatus, præter solummodo Ducem* Henricum, *recognovit in Conventu Episcoporum & aliorum de Regno optimatum, quod Dux* Henricus *jus hæreditarium in Regnum* Angliæ *habebat, & Dux benigne concessit, ut Rex* Stephanus *tota vita sua suum Regnum pacifice possideret. Ita tamen confirmatum est, quod ipse Rex & Episcopi tunc præsentes cum cæteris Regni optimatibus jurarent, quod Dux* Henricus *post mortem Regis, si illum supervixeret, Regnum sine aliqua contradictione obtineret*: That is, King *Stephen* not having an Heir, *except only Duke* Henry, did acknowledge in an Assembly of the Bishops and other Chief Men of the Kingdom, *That Duke* Henry *had the Hereditary Right to the Kingdom of* England; *and the Duke kindly granted* that King *Stephen* should, during his Life, peaceably enjoy his Kingdom. The Agreement was so confirmed, that the King himself, and the Bishops then present, with the rest of the best Men of the Kingdom sware, that Duke *Henry*, after the death of the King, if he should out-live him, should enjoy the Kingdom without all contradiction.

[2.] *Fol.* 246. *n.* 10. *Anno Dom.* 1153. This Accord was made at *Wallingford*, by the diligence of Arch-Bishop *Theobald* and Bishops of the Kingdom.

C

D

This Accord afforded Quiet and Tranquility both to *Henry*, and the Nation, with certain Confidence of enjoying the Kingdom after the death of *Stephen*; which he did. *But as to his Right and Title, it added nothing to that, it being Hereditary*: for he was acknowledged the true Heir by his Adversary *Stephen*, in the presence of the Bishops, and the best Men of the Kingdom: who all likewise acknowledged it, by owning the Accord, and swearing to observe it.

E

F

On the [3.] 24th. of *October*, the year following, King *Stephen* died, and on the 19th. of *December* following, *Henry* was Crowned at *Westminster* by *Theobald* Arch-Bishop of *Canterbury*. And *Maud* the Empress, being satisfied with the Enthroning of her Son, quitted her Pretensions.

[3.] *Ibid. n.* 30. *Anno Dom.* 1154. *Hen.* 2d.

King

King *Henry* II. dying in *France*, *July* 7. 1189. [4.] his eldest Son and Heir, *Richard*, was by *Walter* Archbishop of *Roven* girt with the Sword of the Dukedom of *Normandy*, on the 20th. of the same Month, in the presence of the Bishops, Earls, and Barons of *Normandy*. And before his coming into *England*, [5.] every Freeman of the whole Kingdom, by the Command of his Mother *Alienor*, sware Fealty to *Richard*, King of *England*, Son of King *Henry*, as to their Liege Lord, against all Men.

A Afterwards [6.] coming to *London*, *Congregatis ibi Archiepiscopis, Episcopis, Comitibus, Baronibus, et copiosa Militum multitudine, in occursum ejus, quorum Consilio, et assensu, ipse Dux*, 3. *Nonas* Septembris, *Consecratus et Coronatus est apud* Westmonasterium *in Regem* Angliæ *à* Baldwino Cantuariensi *Archiepiscopo, &c.* The Archbishops, Bishops, Earls, Barons, and a copious multitude of Knights met him: by whose Advice and Assent, the [7.] Duke was Crowned King of *England* by *Baldwin* Archbishop of *Canterbury*, many other Bishops there named assisting.

B *Et omnibus fere Abbatibus, et Prioribus, et Comitibus, et Baronibus* Angliæ *astantibus.* Almost all the Abbots, Priors, Earls and Barons of *England* being Spectators.

Ralph de Diceto, then Dean of St. *Pauls*, *London*, who in the Vacancy of that Church and Bishoprick, [8.] supplied the Office of the Bishop at King *Richard*'s Coronation, hath this passage, *Comes itaque* Pictavorum Richardus HÆREDITARIO JURE PRÆMOVENDUS *in Regem, post tam Cleri, quam Populi solemnem et debitam Electionem involutus est triplici Sacramento*, &c. Therefore *Richard*, Earl of *Poictou*, being by Hereditary Right to be made King, after the solemn and due Election, as well of the Clergy as the Laity, sware to three things. [9.] *Scilicet, Quod opem impendet pro viribus, ut Ecclesia Dei, populusque Christianus, veram pacem obtinent, quod interdicet omnibus Rapacitatem, quod in judiciis equitatem præcipiet, & misericordiam.* That is to say, That he would use his utmost power that the Church of God, and Christian People might enjoy true Peace: That he would interdict Rapine to all Men:

D That he would command Mercy and Equity, to be done in Judgments.

What can this solemn and due Election signifie here? What can it mean further, than that *Richard* being King by Hereditary Right, was so owned and recognized by the Clergy and Laity?

John, in his Brother *Richard*'s Life-time, had a mind to be King; and taking advantage of his Absence in the *Holy Land*, and his Imprisonment in *Germany*, practised with the Nobility and *Londoners* to that purpose. The last sware faithful Service to their Lord, King *Richard*, and to his Heirs; and if he should die without Issue, *Ut reciperent Comitem* Johannem *fratrem* Richardi *Regis in Regem & Dominum.* That they would receive Earl *John*, the Brother of King *Richard*, for their King and Lord: and swore Fealty to him against all Men, saving their Fealty to his Brother King *Richard*.

Two years afterward, confederating with the King of *France* against his Brother, and being assisted by him, he returned into *England*, and brought many Strangers with him: and coming to *London*, demanded the Kingdom of the Archbishop of *Roven*, who was then Justiciary, and the other Justiciaries of *England*, *& Fidelitates Hominum* Angliæ; affirming the King of *England*, his Brother, was dead. But not believing him, they and the other great Men of the Kingdom rejected him.

Then, swelling with Fury, he fortified his Castles and Places of Strength, and seized the Crown-Lands. Many came in unto him; but being deceived, they were punished according to their deserts.

[4.] *Heved. f.* 372. *b. n.* 40. 50. *f.* 373. *a. lin* 7.

[5.] *Ibid. n.* 50. *& b. lin.* 7. *Quod fidem portabit Regi* Angliæ Richardo, *Regis* Hen. *filio, &c.*

[6.] *Ibid. f.* 374. *n.* 10.

[7.] Of *Normandy*.

[8.] *Rad. de Diceto. Col.* 647. *n.* 40, 50.

[9.] *Ibidem.*

Richard the First his Oath.

See the word *Electus* in the Glossary.

Hoved. f. 398. *b. n.* 30. 40. 50. *&c.* 399. *b. n.* 40. *An. Dom.* 1191.

Ibid f. 412. *a. n.* 40. 50. *Anno Dom.* 1193.

Ibid. b. lin. 1. *&c.*

And for these and other [9.] Treasons committed the year following; as combining with the King of *France*, and offering great Sums of Money to the Emperor to keep King *Richard* in Prison, and making new [1.] Disturbances in the Nation. [2.] *Per* Commune Consilium *Regni, Definitum est, quod Comes* Johannes *dissaisiretur de omnibus Tenementis suis in* Anglia. By the Common Council of the Kingdom it was decreed he should be disseized of all he held of the King in *England*. And presently all his [3.] Castles were besieged and taken from him.

Yet for all this, the next year King *Richard* [4.] pardoned his Brother *John*, and restored to him the Earldom of *Moreton*, or *Mortaigne*, the Honour of *Eye*, and Earldom of *Glouceſter*, except the Castles; and for his other Earldoms and Lands, allowed him yearly eight thousand Pounds of *Anjou*-Money.

And in the last year of his Reign, [5.] *Cum Rex de vita desperaret, divisit* Johanni *fratri suo Regnum* Angliæ, *& omnes alias terras suas, & fecit fieri prædicto* Johanni *fidelitates ab illis qui aderant, & præcepit ut traderentur ei Castella sua, & tres partes Thesauri sui.* When the King despaired of Life, he devised to his Brother *John* the Kingdom of *England*, and all other his Lands, and made all present swear Fealty to him, and commanded that his Castles and three parts of his Treasure should be delivered to him.

Richard being dead, [6.] *John* stayed in *Normandy* (where, by *Walter* Archbishop of *Roven*, he was girt with a Sword of that Dutchy, *April* 25. on St. *Mark*'s day) and sent *Hubert* Archbishop of *Canterbury*, and the Popes Legat, and *William Marshal* Earl of *Strigvil*, into *England*, to keep the Peace; together with *Jeffrey Fitz Peter*, Justiciary of *England*, and other Barons of the Kingdom. [7.] *Qui fecerunt homines regni tam de Civitatibus, quam de Burgis, & Comites, & Barones, & libere tenentes jurare fidelitatem & pacem* Johanni Normannorum *Duci filii* Henrici *Regis, filii* Matildis *Imperatricis contra omnes homines.* Who made the [8.] Homagers of *England*, as well of Cities, as Burroughs, and Earls, Barons, and free Tenents, to swear Fealty and Peace to *John* Duke of *Normandy*, the Son of King *Henry*, the Son of *Maud* the Empress, against all Men.

[9.] Notwithstanding this, all the Bishops, Earls, and Barons which had Castles, Manned, Victualled, and stored them with Arms. But *Hubert* the Archbishop, *William Marshall*, and *Jeffrey Fitz-Peter*, Justiciary of *England*, met at *Northampton*, and called before them those which they most doubted: *David*, Brother to the King of *Scots*, *Richard* Earl of *Clare*, *Randulph* Earl of *Chester*, *William* Earl of *Tutesbury*, and *Walran* Earl of *Warwick*, *Roger* Constable of *Chester*, *William de Mowbray*, and many other Earls and Barons; to whom they promised and engaged, that *John* Duke of *Normandy* should restore to every Man his Right, if they would keep Faith and Peace with him [4.] *Sub hac igitur Conventione supradicti Comites &c.* According to this Agreement, the said Earls and Barons swore Fealty, and faithful Service to *John* Duke of *Normandy*, against all Men. This was done while he was in *Normandy*.

Mat. Paris in the relation of this particular Matter *differs* somewhat from *Hoveden*; he says, * That when Archbishop *Hubert*, *William Marshall*, and *Jeofrey Fitz-Peter*, and other great Men of the Kingdom, called before them at *Northampton* all the chief Nobility they suspected, or most doubted of; *Fecerunt illis Fidem, quod comes Johannes, Jura sua redderet Universis:* They promised *Earl John* should restore to every one their Rights. *Sub tali igitur Conventione*, Comites, *et* Barones, Comiti *memorato fidelitatem contra omnes homines Juraverunt.* Therefore upon such *Condition* or *Agreement*, the *Earls* and *Barons* sware Fidelity to the before-mentioned Earl, against all Men. These

[9.] *Ibid. f.* 417. *b. n.* 30. *Anno Dom.* 1194.
[1.] *Ibid. f.* 418. *a. n.* 40.
[2.] *Ibidem, b. lin.* 6.
[3.] *Ibidem, n.* 20.
[4.] *Ibid. f.* 428. *a. n.* 20. *Anno Dom.* 1195. 6 *Ric.*
[5.] *Ibid. f.* 449. *b. lin.* 37.
[6.] *Fol.* 450. *b. n.* 10. King *Richard* died, *Apr.* 6. 1199.
[7.] *Ibidem, n.* 40.
[8.] *Homines Regni* could be no other, seeing Fealty and Homage was due only from such as held Lands subject to that Service.
[9.] *Ibidem, n.* 40.
[4.] *Ibidem, n.* 50.
* F. 196. n. 20.

These *Rights* (if the Historian had noted them) in all probability were no other than their *own* large *Demands*, which they *called* so; and whatever they were, *Earl John* was forced to grant them, for at that time he was an *Usurper*, and the *Barons*, or *major part* of them, always *Bargained* and made *Terms* with *Usurpers* to their own *Advantage*, and *Disadvantage* to the *Crown*, as the *Constitution* of the *Government* was then, as they had done with **Henry** the *First*, and King **Stephen**.

A He might have been in as much danger of being laid aside in *England*, as in the *Dominions* beyond the Sea, if this promise had not been made: For the * Princes of *Anjou*, *Turain*, and *Main*, adhered to **Arthur** as their *Liege* Lord, saying it was the *Law* and *Custom* of those Countries, That **Arthur** the Son of the elder Brother, should succeed his *Uncle* in the *Patrimony* and *Inheritance* due to him; which his Father *Jeofry* should have enjoyed, if he had out-lived *King Richard*.

* *Ibid. n.* 30. 40.

B And *John de Curci* an *English Norman*, was * thrown out of his *Earldom* of *Ulster* in *Ireland*, and judged to perpetual Imprisonment. *Quia fuit Rebellis* **Johanni** *Regi Angliæ, et noluit sibi facere Homagium, et vituperaverit eum de Morte* **Arthuri** *Legitimi Hæredis*; Because he was a *Rebel* to King *John*, and would not do *Homage* to him, and *charged* him with the *Death* of **Arthur** the Lawful Heir.

* *Annal. Hibern A. D.* 1204. *Camb. Britan. f.* 797.

[5] On the 25th of *May* following, Duke *John* crossed the Seas from *Normandy* into *England*, and the next day came to *London*; and there were Convened in expectation of him, *Hubert* Archbishop of *Canterbury*, John Arch-Bishop of *Dublin*, *William* Bishop of *London*, *Gilbert* of *Rochester*, *John* of *Norwich*, *Hugh* of *Lincoln*, *Eustace* of *Ely*, *Godfrid* of *Winchester*, *Henry* of *Exeter*, *Sefrid* of *Chichester*, *Jeffrey* of *Coventry*, *Savaric* of *Bath*, *Herbert* of *Salisbury*, *Philip* of *Durham*, *Roger* of St. *Andrews* in *Scotland*, *Henry* of *Landaff*, Bishops: *Robert* Earl of *Leicester*, *Richard* Earl of *Clare*, *William* of *Tutesbury*, *Hamlin de Warenn*, *William* of *Salisbury*, *William de Strigvil*, *Walran* of *Warwick*, *Roger Bigot*, *William de Arundel*, *Ranulph de Cestre*, Earls: and many Barons.

[5.] *Ibid. f.* 451. *a. n.* 20.

C

D And then *Hubert* Arch-Bishop of *Canterbury* Consecrated and Crowned the said *John* Duke of *Normandy*, King of *England*, in the Church of St. *Peter* at *Westminster*, on the 27th of *May*, being *Ascension Day*.

Not one word here of any Election by, but only a Submission from the Barons Spiritual and Temporal, to King *John*; and a Recognition, that he was their King. And all this related by *Hoveden*, in all probability an Eye-witness of this Transaction.

E Indeed *Matthew Paris*, who died *Anno Dom.* 1259. was then either unborn, or so young as not with Judgment to take sufficient notice of this Affair, relates it thus; [6] *Congregatis in adventu ejus Archiepiscopis, Episcopis, Comitibus & Baronibus, atque aliis omnibus, qui ejus Coronationi interesse debuerant; Archiepiscopus stans in medio omnium, dixit, audite universi, noverit discretio vestra, quod nullus prævia ratione alii succedere habet Regnum, nisi ab universitate Regni unanimiter invocata Spiritus Gratia electus, & secundum morum suorum eminentiam præelectus, ad exemplum & similitudinem* Saul *primi Regis inuncti, quem præposuit Dominus populo suo, non Regis filium, nec de Regali stirpe procreatum, similiter post eum* David Jesse *filium, Hunc quia strenuum, & aptum Dignitati Regiæ; illum quia sanctum & humilem, ut sic quia cunctos in regno supereminet strenuitate, omnibus præsit, & potestate & regimine, verum si quis ex stirpe Regis defuncti aliis prepolleret, pronius & promptius, in electionem ejus est consentiendum. Hæc idcirco diximus, pro inclyto Comite* Johanne, *qui præsens est, frater illustrissimi Regis nostri* Richardi

King *Richard* died, *Anno Dom.* 1199.

[6.] *Paris, f.* 197. *n.* 20.

F

chardi *jam defuncti, qui hærede caruit ab eo egrediente, qui providus & ſtrenuus & manifeſte nobilis, quem nos, invocata Spiritus Sancti Gratia, ratione tam meritorum, quam Sanguinis Regii, unanimiter eligimus univerſi,* [7] *nec auſi erant alii ſuper his adhuc ambigere, ſcientes quod Archiepiſcopus ſine cauſa, hoc non ſic diffiniverat, verum Comes* Johannes *& omnes hoc acceptabant, ipſumque Comitem in Regem eligentes & aſſumentes exclamant, dicentes, vivat Rex; Interrogatus autem poſtea Archiepiſcopus* Hubertus, *quare hæc dixiſſet, reſpondet ſe præſagamente conjecturare, & quibuſdam Oraculis Edoctum & Certificatum fuiſſe, quod ipſe* Johannes *Regnum & Coronam* Angliæ *foret aliquando corrupturus, & in magnam confuſionem præcipitaturus, & ne haberet liberas habenas hoc faciendi, ipſum electione, non ſucceſſione hæreditaria, Elegi debere affirmabat.* That is,

[ ] *Ibidem, n* 30. 40.

Note here *Succeſſione hæreditaria eligere*, which can ſignifie nothing, but to recognize and acknowledge him King by Hereditary Succeſſion.

The Arch-Biſhops, Biſhops, Earls, and Barons, and all others (Officers, probably, required to be there) which ought to be preſent at his Coronation, meeting at *London*. The Arch-Biſhop ſtanding in the middle of them, ſaid, 'Hear all of you, your Diſ- A
'cretion ſhall know, that no Man hath Right to ſucceed in the King- B
'dom, unleſs, after ſeeking God, he be unanimouſly choſen by the Uni-
'verſity of the Kingdom, (that is, thoſe that are here ſaid to meet at
'*London*.) And according to the Eminency of his Endowments, pre-ele-
'cted, according to the Example and Similitude of *Saul*, the firſt Anoin-
'ted King, whom God ſet over his People; not the Son of a King, or
'of the Royal Line. Likewiſe after him, *David* the Son of *Jeſſe*.
'This becauſe ſtout and fit for Royal Dignity: the other becauſe holy C
'and humble. That ſo he which exceeded all Men of the Kingdom
'in Strength, or Proweſs, ſhould be ſet over all in Power, and Govern-
'ment. But if any of the Progeny of the dead King did excel others,
'they ought more readily to conſent to the Election of him. Theſe
'things we have therefore ſaid in the behalf of the famous Earl *John*,
'who is here preſent, the Brother of our moſt illuſtrious dead King *Ri-*
'*chard*, that died without Iſſue of his Body; who is Provident, Stout,
'and manifeſtly Noble, whom we, having invoked the Grace of the D
Holy Spirit, have all of us unanimouſly choſen. Nor dare any others
'ſo much as doubt of theſe things, knowing the Archbiſhop had not
'thus decreed this Matter without Cauſe. But Earl *John*, and all
there acquieſced in what he had ſaid; and chuſing or acknowled-
ging; and receiving him for their King, ſhouted, ſaying, *Let the*
King live. But Archbiſhop *Hubert* being asked afterward, why he
ſaid theſe things? Anſwered, 'That he gueſſed, and was taught, and
'aſcertained by certain Oracles, that *John* would bring the Kingdom E
'and Crown into great Confuſion: And therefore, leſt he might have
'too much Liberty in doing it, he affirmed he ought to come in by
'*Election*, and not by *Hereditary Succeſſion*: and ſo was Crowned as
before rehearſed.

The Reaſon why the Archbiſhop pretended this was an Elective Kingdom

This Learned Doctrine and Preachment of the Archbiſhop aſſerts not any Right of Election in the Convention of Biſhops, Earls, Barons, and others required to be at the Coronation; but by his own Anſwer, when he was asked why he ſaid theſe things, it clearly diſcovers a De- F
ſign only, and Artifice in the Archbiſhop, to cauſe them to ſet up, and make *John* King: In which alſo he denies any ſuch right of Election.

Hoveden hath none of, nor doth mention this Harangue; and therefore it ſeems rather to be an invention of *Matthew Paris*, than a Sermon of the Archbiſhop. Hiſtorians commonly make Speeches for other Men they write of. *Brompton* takes no notice of it; all he

ſays

ſays is, that [8.] Johannes Lundoniam *veniens in Feſto aſcenſionis Domini*, VI. Kalend. Junii, *Anno Dom.* 1199. *ab* Huberto Cantuarienſi *Archiepiſcopo in Eccleſia* B. Petri Weſtmonaſterii *inungitur & in Regem* Angliæ *coronatur, aſſiſtente Prelatorum, Comitum, Baronum, & aliorum Nobilium multitudine infinita.* *John* coming to *London* on *Aſcenſion-Day*, the 27th. of *June*, 1199. was Anointed and Crowned King of *England* by *Hubert* Arch-Biſhop of *Canterbury*, in St. *Peter's* Church in *Weſtminſter*, an infinite multitude of Biſhops, Earls, Barons, and other Noblemen aſſiſting him. Not one word here, or in *Hoveden*, or *Paris*, of the ordinary People.

[8.] Col. 1181. n. 40, 50.

A

And this Doctrine of the Arch-Biſhop concerning the Election of Kings, if meant according to the Modern Underſtanding of it, was then new; for *Gervaſe*, a Monk of *Canterbury*, in the year 1122. ſpeaking of the Coronation of *Henry* the Firſt, ſays, It was manifeſt,

B

and known almoſt to all Men, that the Kings of *England* were only obliged and bound to God for the Poſſeſſion of the Kingdom, and to the Church of *Canterbury* for their Coronation. [9.] *Manifeſtum eſt autem & omnibus fere notum, Reges* Angliæ *ſoli Deo obligari, & teneri ex ipſius regni adeptione, & Eccleſiæ* Cantuarienſi *ex Coronatione.*

[9.] Col. 1338. n. 30.

King *John* doth ſay in a [1.] Charter dated the firſt year of his Reign, that he came to the Crown, *Jure hæreditario, & mediante tam Cleri, quam populi unanimi conſenſu, & favore:* By Right of Inheritance, and by unanimous Conſent and Favour, as well of the Clergy as Laity. This unanimous Conſent of the Clergy and Laity *was rather their Acknowledgment and Submiſſion than any thing elſe:* for, according to *Hoveden's* Relation of his coming to the Crown, which is the moſt exact extant, *They ſubmitted and ſwore Fealty to him againſt all Men before he came into* England, *ſome time before his Coronation.* Nor could it be true that he had an *Hereditary Right*; for *Arthur* Duke of *Britain*, Son and Heir to his elder Brother *Jeffrey*, and his Siſter *Eleanor*, was then living: unleſs he had regard to the Donation of his Brother *Richard*, and ſo eſteemed himſelf a Teſtamentary Heir.

[1.] *Moderat. Feod. Magn. Sigilli.*

C

D

After the death of King *John*, *Henry* the Third, his eldeſt Son, and Heir, by the Aſſiſtance of the Loyal Barons, was Crowned King, notwithſtanding the Barons which had made War againſt King *John*, when they were reduced to great Streights, [2.] called out of *France*, *Lewes*, the King's Son; to whom [3.] they, with the *Londoners*, ſware Fealty, and avanced him to the Throne, and adhered to him againſt their own Prince; [4.] until by force they were reduced, and he driven out of the Kingdom. This Treaſonable calling in of *Lewes*, ſome that are pertinacious in the fancy of Election, will have it to be one. [5.] Indeed King *Henry* the Third at this time had no good Hereditary Title; and therefore, *Johannes ex hac vita tranſmigravit*, Henricum *primogenitum ſuum regni conſtituens hæredem.* And this Donation of his Father, or his making him his Heir, was his beſt Title; for until that *Eleanor*, the Daughter of his Uncle *Jeffrey*, died, in the twenty fifth year of his Reign, he was not true Heir by Right of Blood. *Obiit* Eleanora (ſaith *Matthew Paris*) *filia* Galfridi *Comitis* Britanniæ *in clauſura diuturna carceris ſub arcta cuſtodia reſervata, fol.* 574. *n.* 40. 25 *H.* 3. *Anno Dom.* 1241.

Hen. 3d. *Paris, f.* 289. *n.* 10.
[2.] *Ibid.* 279. *n.* 20.
[3.] *Ibid.* 282. *n.* 10.
[4.] *Ibid.* 296. *n.* 40. 297. *n.* 30. 299. *n.* 20.
[5.] *Paris, f.* 288. *lin.* 2. *Weſtmin. f.* 276. *n.* 40.

E

F

To

Edward the First.

To *Henry* the Third succeeded his eldest Son *Edward* the First, though the *Lancastrians* said his second Son *Edmund*, commonly called *Crouch-Back*, was the eldest, and laid aside for his deformity; on whose Person was originally founded the great Contention between the two *Royal Houses* of *York* and *Lancaster*. But that he was really the eldest, there can be no pretence, however the *Lancastrians* imposed upon the People. For *Edward* was born [6.] *June* 16. 1239. and *Edmund* upon the [7.] 16th of *January*, 1245. being *Marcellus* his day, six years after. *Edward*, by that time he was a year old, was acknowledged the First-born of his Father, his Brother *Edmund* not then born. [8.] *Per idem tempus Rex Cives* Londinenſs, *& quinque portuum cuſtodes, & multos alios fecit jurare fidelitatem, & ligantiam* Edwardo *primogenito ſuo*. In the Letter from the Loyal, to the Rebellious Barons, he is styled the First-born of King *Henry*. [9.] Richardus *Dei gratia Rex* Romanorum *ſemper* Auguſtus, & Edwardus *illuſtris Regis* Angliæ *primogenitus, &c.* And very frequently *Matthew Paris*, who lived at this time, and was Historiographer to his Father, calls him his First-born. So that there can be no doubt in History, that he was the eldest Son; for King *Henry* the Third had only these two Sons, *Edward* and *Edmund*.

[6.] *Paris, f.* 488. *n.* 30,40.
[7.] *Ibid. f.* 654. *n.* 20.
[8.] *Ibid. f.* 527. *n.* 40. *Anno Dom.* 1240.
[9.] *Ibid. f.* 994. *n.* 50.

Edward the Second. Brief History of Succession, *f.* 6.

After the death of *Edward* the First, his Son *Edward* the Second succeeded him; and, as Men of purely Commonwealth-Principles tell us, he degenerating from so great a Father, the People grew weary of his Irregular Arbitrary Government; deposed him, and chose *Edward* his Son to Reign in his stead. A plain Argument, say they, of the Peoples Power in chusing their Kings, and of limiting and binding the Succession.

But whoever reads this Story, will not find the ordinary People had much, if any thing to do in this matter, further than as they were excited to Tumults and Railing at the Government, by many of the Popular Bishops and Barons; for they always have been, and ever will be, Instruments of Designing Men against the Government, if by remissness thereof, and easiness of Governors, they be permitted. This King was Deposed and Murdered by a wicked Confederacy and Rebellion of many Bishops and Barons. And there is nothing to justifie this Rebellion, Deposition and Murther, in which our Anti-Monarchial Men instance so often as an Example to be followed, but the meer doing of it: And if a Fact be therefore lawful, only because it is done, we have no need of Laws, Lawyers, or Officers of Justice, to maintain, plead for, or defend it. The truth is, this King was not of so brisk a temper, as his Father, nor endowed with so much Courage: he was more soft and easie, and used too great and unseasonable Indulgence, to such as he permitted to guide his Affairs, and the Affairs of the Kingdom in his Name.

[1.] *Vid.* Preamble to the Ordinances made by an extorted Commission to certain Ordainers, dated *Mar.* 16. 3 *Ed.* 2. but not executed until the fifth of his Reign. Ordinance, 13, 14, 16. *Rot. Parl.* 5 *Ed.* 2. *Tho. Walsingham, f.* 113. *lin.* 48.

From hence many Rebellious Barons, under pretence of the [1.] *Honour of God and Holy Church, the Honour of the King and Realm*, made Confederations to remove Evil Counsellors, reform the Court, and to force the King to let them name all Judges, the Chancellor, Treasurer, and other great Officers in Court, *Gascoigne*, *Ireland*, and *Scotland*.

Thomas

Thomas Duke of *Lancaſter*, one of thoſe Commiſſioners and Ordainers, was always the Head of theſe Confederacies, [1] who pretended great *Affection to the King, to the common profit of the Realm*, and great care to ſee theſe Ordinances, cited in the Margin, maintained in all Points, and many things *amended in the King's Houſhold, Court* and *Realm*.

[1] Vid. Memoranda Parliamenti, 9 Ed. 2. apud Lincoln.

A At length this great Earl of *Lancaſter* [2] behaved himſelf very indecently towards the King, and uſed him with much Scorn and Contempt; until at laſt, in the fifteenth of his Reign, he and many of his Confederates brake out into open Rebellion, at *Burton* upon *Trent*; and flying before the Kings Army Northward, was, with many others, taken at *Burrough-Bridge* in *Yorkſhire*: and being tried by his Peers, was adjudged to be Hanged, Drawn and Quartered: which Sentence was pardoned by the King, and he was only Beheaded. * The like B Sentence had *Warren de Inſula*, *William Toket*, *Thomas Maudut*, *Henry de Bradborn*, *William Fitz-William*, and *William Cheyne*, the Lord *Roger Clifford*, the Lord *John de Mounbray*, the Lord *Henry Tyes*, the Lord *Bartholomew de Badleſmere*, and *Joſcelin de Invilla*; moſt of them Barons. *Propter Roberias & Felonias & reſiſtentiam quam fecerunt contra Regem ad villam de* Burton, *Occidentes Regis familiares, & Regis tranſitum prohibentes, & partem villæ prædictæ comburentes, &c.* For Robberies and Felonies, and the Reſiſtance they made C againſt the King at the Town of *Burton*; killing the King's Friends and Servants, and burning part of the Town upon their Retreat.

[2] Walſingham, f. 116. n. 20, 30, 40.

* Ibidem.

The Ordinances before-mentioned, in number forty one, were revoked, and the Confederations and Tumultuous Barons and their Actions cenſured, in a [3] Parliament holden at *York*, 15 *Edw.* 2. The Ordinances were revoked upon Examination of them before the Prelates, Earls, Barons, (amongſt which were all the Ordainers then D alive) and the Commons of the Realm: For that, by the things which were ordained, *The King's Royal Power was reſtrained in many things, againſt the due Greatneſs of his Seigniory Royal, and contrary to the State of the Crown. And alſo, for that in times paſt, by ſuch* **Ordinances** *and* [4] **Proviſions** *made by* **Subjects** *over the* **Power Royal** *of the Anceſtors of the Lord the King,* **Troubles** *and* **Wars** *came upon the Realm, by which the Nation was in danger*, and it was accorded and eſtabliſhed in the ſaid Parliament, by the Lord the King, and by the ſaid Prelates, E Earls and Barons, and all the Commonalty of the Realm at that Parliament aſſembled; *That all thoſe things by the Ordainers ordained, and contained in the ſaid Ordinances from henceforth, for the time to come, ſhould ceaſe, and loſe their Force, Vertue and Effect for ever. And that from hence* **forward, in no time,** *no manner of Ordinances or Proviſions made by the Subjects of the Lord the King, or his Heirs, by any Power or Commiſſion whatſoever,* **ober** *and* **upon** *the* **Power Royal** *of the ſaid Lord the King, or his Heirs, or againſt the State of the Crown, ſhall be* F *of no value or force.* But the things which ſhall be eſtabliſhed for the Eſtate of the King and his Heirs, and for the Eſtate of the Realm and People, *may be treated, accorded and eſtabliſhed in Parliament, by the* **King,** *and by the Aſſent of the* **Prelates, Earls, Barons,** *and* **Commonalty** *of the Realm.*

[3] Great Stat. Rol. ab Hen. 3. ad 21 Ed. 3. m. 31. Bib. Cott. Claudius, D. 2. f. 232. a.

[4] Oxford *Proviſions*, 42 Hen. 3.

Roger de Mortuo-Mari, Lord of *Wigmore*, [4] ſubmitted himſelf to the King, which much weakened the Barons Forces before the Engagement at *Burton*, and was ſent to the Tower of *London*; from whence he made his Eſcape after two Years Impriſonment, in the Seventeenth of the King's Reign, and went over Sea to the King of *France*; who at this time required the King of *England* to do him [5] Homage for *Gaſcoygn* and other Territories he held of him in *France*. But he delaying to do it, and excuſing himſelf by [6] Meſſengers, who prevailed not, the King of *France*, with an [7] Army, ſeized *Gaſcoign*, and the County of *Ponthieu*: yet by the means of *Edmund* of *Woodſtock*, the King's Brother, and other *Engliſh* Noblemen then in *France*, a Truce was made with the King of *France* for a certain time, until a Peace might be treated of. [8] The Year following, the Biſhops of *Wincheſter* and *Norwich*, with *John de Britannia* Earl of *Richmond*, were employed to that purpoſe: and after much diſceptation about it, they received a Form of Peace from the King of *France*. And at length the [9] Queen, by Advice given by the Biſhops and Great Men to the King, was ſent to her Brother, the King of *France*, for making up, and Confirmation of the Peace. [1] And it was accorded, that King *Edward* ſhould give the Prince, his Son, the Dutchy of *Aquitain* and County of *Ponthieu*, that he ſhould go over into *France*, and do Homage for them; which he did accordingly.

But the Prince being in *France* with his Mother, ſhe had no mind to return. [2] The King ſent divers Letters to his Son *Edward*, and his Queen *Iſabel*; expoſtulating the Cauſe of their ſtay in *France* againſt his Will, and the Confederation they made there with *Roger Mortimer*, his Enemy and Rebel, and others.

Walſingham ſays, [3] Some affirmed ſhe ſtayed there againſt her Will, *Alii vero aſſerebant quod voluntarie propter nimiam familiaritatem tunc contractam inter Reginam &* Rogerum de Mortuo mari *ſine quo & aliis Nobilibus de* Anglia *profugatis noluit dicta Regina redire, & maxime in odium diſpenſatorum.* But others affirmed ſhe ſtayed voluntarily, by reaſon of the too great Familiarity ſhe had contracted with Earl *Roger Mortimer*, [4] without whoſe Advice ſhe did nothing; and without whom, and the other Noble-men that had fled out of *England*, ſhe would not return; and eſpecially for the Hatred ſhe bare towards the *Spencers*; proud, ambitious, haughty and covetous Men, by whom the King was too much ſwayed in the Management of his Affairs; which might give a diſſatisfaction to the Nobility, though not warrant their Actions.

The next [5] year, having married the Prince (not then fourteen years old) to the *Earl* of *Hanault*'s *Daughter, who furniſhed her with Shipping, and two thouſand ſeven hundred and fifty Men,* led by his Brother *John, ſhe, with* Edmund *Earl of* Kent, *and* Roger Mortimer *Lord of* Wigmore, and many other Great Men who had fled out of *England*, landed at *Harwich*; to whom the Earl Marſhal, the Earl of *Leiceſter*, and other Barons and Knights of thoſe Parts, and almoſt all the Biſhops did adhere: and proceeding, her Army daily increaſed; ſo as at laſt ſhe took her Husband, the [6] King, Priſoner, and put to death both the *Spencers*; the Younger without [7] Hearing or

[4] Walſingham, f. 115. n. 40.
[5] Ibid. f. 119 n. 20.
[6] Ibid. f. 120 n. 20.
[7] Ibid. n. 40.
[8] Ibid. f. 121 n. 30.
[9] Ibid. n. 40. & Cl. 20 Ed. 3. m 11. Dorſ.
[1] Walſingham, ibid. n. 40
[2] Cl. 19 Ed. 2 m. 2.
[3] F. 122. n. 10 *She was generally reported to be a vile Woman, cruel and unchaſt.*
[4] Ibid. f. 125 lin. 49.
[5] Ibid. f. 123 n. 20, 30.
[6] Ibid. f. 125 n. 30.
[7] Ibid. n. 50.

or Anſwering. The impriſoned King was carried and removed from place to place, but at laſt fixed at *Berkeley*-Caſtle in *Gloceſter-ſhire*, under the Guard of *Thomas Berkeley* and *John Maltravers*, who had allowed [1] an hundred Shillings a day for his Expences and Keeping. The Queen never would ſee him during his Impriſonment, [2] *Regina miſit ſibi Indumenta delicata, & Literas blandientes, ſed tamen ipſum videre nolebat, fingens quod* communitas Regni *non permiſit.*

A The Queen ſent him gay Cloaths and flattering Letters, but would not ſee him, feigning the Community of the Kingdom would not permit her.

He was [3] made Priſoner, *November* 16. and the Morrow after *Twelfth-day*, all the Nobility of the Kingdom, being ſummoned to Parliament, met at *London*, and judged the King unfit to rule, and for ſeveral Reaſons to be depoſed; and his Son, Prince *Edward*, to

B be choſen King. [4] *Convenit* Londiniis *tota* Nobilitas *Regni citata per prius ad Parliamentum tenendum ibidem in craſtino* Epiphaniæ, *ubi cuncti cenſuerunt Regem indignum Diademate, & propter plures Articulos deponendum, &* Edvardum *filium ejus primogenitum in Regem unanimiter eligendum, quod etiam conſequenter factum eſt.* Of which Tranſaction, when the Queen had notice, ſhe was full of Grief outwardly (*ut foris apparuit*) ſaith *Walſingham*: But the Prince, affected with this outward Paſſion of his Mother, as young as he was, would

C not accept of this Title (whether out of his own Apprehenſion of things, or by grave and mature Advice, which is moſt probable.) *Et* [5] *Juravit quod invito patre nunquam ſuſciperet coronam Regni*: And ſwore, that without his Father's Conſent, he would never take upon him the Crown of the Kingdom. Whereupon, ſeveral [6] Meſſengers being diſpatched to the King, then Priſoner at *Kenelworth*-Caſtle, who told him what had been done and concluded of, and diligently required him to reſign his Royal Dignity and Crown, and

D permit his Son to reign in his ſtead.

He was much diſturbed with the Meſſage; and ſaid, Since it could be no otherwiſe, he thanked them for chuſing his Firſt-born Son; making his Reſignation, and delivering up the Royal Enſigns, or Tokens of Sovereignty.

Edward the Third.

E This done, *Edward* the Third directs his Writs to the Sheriffs of the ſeveral Counties, for preſerving and keeping the Peace; with this Preamble.

Rex [7] *Vicecom. Ebor. Salutem. Quia Dominus* Edwardus *nuper Rex* Angliæ *Pater Noſter de Communi Conſilio & aſſenſu Prælator. Com. Baron. & alior. Magnat. necnon Communitat. totius Regni prædict.* SPONTANEA VOLUNTATE *ſe amovit a Regimine dicti Regni* VOLENS & CONCEDENS *quod nos tanquam ipſius primogenitus &*

F HÆRES *ipſius regni gubernationem & regimen aſſumemus, noſque ipſius patris noſtri beneplacito in hac parte de conſilio & aviſamento Prælator. Com. Baron. Magnat. & Comitat. prædict. annuentes Gubernacula ſuſcepimus dicti regni; & fidelitates & Homag. ipſorum Prælator. & Magnat. recepimus ut eſt moris. Teſte Rege apud* Weſtmonaſterium, 29 Jan.

[1] Cl. 1. Ed. 3. Part. 1. m. 3. Dorſ.

[2] Walſing. f. 127. lin. 36.

The Community could be no other than the Biſhops and Lords which were here meant by that word in this place.

[3] Ibid. n. 40. Knighton *ſays*, Octabis *Epiphaniæ*, *Eight days after* Twelfth-Day. Col. 2549. n. 50.

[4] Walſingh. f. 126. n. 20, 30.

Ibid. lin. 39.

[5] Ibid. n. 40.

[6] Ibidem.

[7] Cl. 1. Ed. 3. Part. 1. m. 28. Walſingham, f. 126. n. 50.

Note de Conſilio & Aviſamento, *not* Electione, &c.

'The King to the Sheriff of *Yorkshire*, Greeting. Because *Edward*, 'late King of *England*, our Father, by Common Council and Assent 'of Prelates, Earls, Barons, and other Great Men, and also of the 'Communities of the said Kingdom, of his own *Free Will*, *removed* 'himself from the Government of the said Kingdom: *Willing* and 'Granting, that We, as his First-born, and Heir of his Kingdom, 'should take upon us the Rule and Government. And We yielding A 'to the good Pleasure of our Father, by the Counsel and Advise- 'ment of the Prelates, Earls, Barons, Great Men, and Communi- 'ties aforesaid, have taken upon Us the Government of the said 'Kingdom, and received the Fealties and Homages of the said Pre- 'lates and Great Men according to Custom. Witness the King at *Westminster*, *Jan.* 29.

Nine days after he was invested with Kingship; and not long B after that King *Edward* the Second was murdered in *Berkeley* Castle.

Any Man, though but of an indifferent Capacity, that seriously considers the Story of this unfortunate Prince, will easily perceive he was deposed by notorious Rebellion, raised by Factious Bishops and Tumultuous Barons; and not without great suspition of an intended Usurpation by *Thomas* Earl of *Lancaster*: and may easily see through the Contrivance of the Queen and *Mortimer* afterwards: C and from thence cannot but judge it to have been a Design of wicked popular Barons, and not the Action, much less the Choice of the People.

Rot. Parl. 4 Ed. 3. n. 1.

In the Fourth of *Edward* the Third, *Roger Mortimer*, Earl of *March*, was impeached in Parliament for divers Felonies and Treasons; for assuming to himself Royal Power, making Dissention between King *Edward* the Second and his Queen, and for murdering of him, and D many other great Treasons: and adjudged to be Drawn and Hanged, and was executed accordingly. And the Earl Marshal was commanded to do the Execution; and the Mayor, Aldermen, and Sheriffs of *London*, and Constable of the Tower, to guard and assist him.

Ibid. n. 2, 3, 4, 5

Many of his Accomplices had the same Judgment.

Rot. Parl. 50. Ed. 3. n. 40. al. 50.

In the Fiftieth of *Edward* the Third, the Parliament do acknowledge E *Richard* the Second to be very Heir to the Crown, as Son to *Edward* the Black Prince, very Heir to the Crown; and petition the King (his Father being dead) to make him Prince of *Wales*.

[1] Walsingh. fol. 193. n. 40. [2] Ibid. f. 195 n. 10.

Who, after his Grandfather's death, was immediately by all People, the [1] *Londoners* especially, acknowledged, owned and addressed to as King; and not long after [2] Crowned with great Solemnity. He lived continually in Tumults, and by his Great Uncles his Reign F was made uneasie, and at length was deposed and murdered by a Potent Faction.

The Author of the *Brief History of Succession*, fol. 7. recommends to his Readers the thirty three Articles drawn up against *Richard* the Second, as well deserving to be read; with hope and design, as easily may be guessed, to make them believe and think he was justly deposed and

and murdered. But Mr. *Hollingshed*, a moderate Writer, who hath truly related these Articles, and all the Transactions of his Deposition and Murder, tells us, [1] that *whatsoever Writers do report, touching the State of the time and Doings of the King, yet if he might boldly speak what he thought, He was a Prince the most unthankfully used of his Subjects of any one of whom ye shall lightly read: For, although (through Frailty of Youth) he demeaned himself more dissolutely than seemed convenient for his Royal Estate, and made choice of such Counsellors as were not favoured of the People; whereby he was the less favoured himself. Yet in no Kings days were the Commons in greater Wealth, if they could have perceived their happy State. Neither in any other time were the Nobles and Gentlemen more cherished, nor Church-men less wronged. But such was their Ingratitude towards their bountiful and loving Sovereign, that those whom he had chiefly advanced, were readiest to control him, for that they might not rule all things at their Will, and remove from him such as they misliked, and place in their rooms whom they thought good; and that rather by strong Hand, than by gentle and courteous means: Which stirred such malice betwixt him and them, till at length it could not be asswaged, without peril of Destruction to them both.*

[1] Third Vol. of Chron. f. 508. n. 50.

The *chief Instruments* in deposing this King were *Henry* Duke of *Lancaster*, late Earl of *Derby*, and *Thomas Arundel* Archbishop of *Canterbury*: who assisted by others, reduced the unfortunate King to so great Straits, as he was weary of his Government. They having him in their power, kept him safe in the Tower of *London*, until a Parliament was called; which was suddenly done, by directing Writs in the King's [2] Name, to those who of Right ought to be there. All things were prepared for the Resignation of his Crown against the time of the meeting of the Parliament. He [3] was, by certain Commissioners appointed by it, deposed; or had rather a Resignation of the Crown extorted from him, though he seemed willing and forward to do it.

Walsingham, f. 358. n. 50.

[2] Ibid. f. 359 lin. 1.

[3] Rot. Parl. 1 H. 4. n. 52.

And then the Duke of *Lancaster* claimed the Crown in Parliament, and challenged the Realm, [4] ALS DESCENDIT BE RYGHT LYNE OF THE BLODE COMEYNGE FRO THE GUDE LORD *HENRY THERDE.*

Henry the Fourth.

[4] Ibid. n. 53.

Postquam quidem [5] *vindicationem & clameum tam Domini Spirituales quam Temporales, & omnes status ibidem præsentes, singillatim & communiter interrogati, quid de illa* **vindicatione**, *&* **clameo** *sentiebant. Iidem status cum toto populo absque quacunque difficultate vel mora, ut Dux præfatus super eos regnaret, unanimiter consenserunt.*

[5] Ibid. n. 54.

After which Claim and Challenge, as well the Lords Spiritual as Temporal, and all States there present being severally asked what they thought of that Challenge and Claim, the same States, with all the People, without difficulty or delay, consented the aforesaid Duke should reign over them.

And then shewing to the States the [6] Signet of King *Richard*, which he gave him as a token of his desire to have him succeed him: The Archbishop, taking him by the Right Hand, placed him in the Throne.

[6] Ibid. Suæ voluntatis.

Here

Here we see the Foundation of the Parliaments Consent, that *Henry* should be King, was a pretended Right of Blood, and the desire of King *Richard* that it might be so.

Henry the Fourth his Title.

Henry *the Fourth was Son to* John *of* Gaunt, *Duke of* Lancaster, *fourth Son to* Edward *the Third, by* Blanch *his Wife, Daughter and Heir of* Henry *Duke of* Lancaster, *Son of* Henry *Earl of* Lancaster, *Brother and Heir to* Thomas *Earl of* Lancaster, *eldest Son to* Edmund *called* Crouch-Back *the First Earl of* Lancaster, *Second Son to King* Henry the Third. A

[1] *Sir* J. Haward's *Life of* Hen. 4. p. 99.

Upon [1] Consideration had of this Title, it was conceived to be insufficient, and that it would pass for a Blind and Pretence only. And therefore King *Henry*, upon the day of his Coronation, caused to be proclaimed, That he claimed the Kingdom of *England*;

[2] Ibid. p. 99.

[2] First, *By Right of Conquest*: Secondly, *Because King* Richard *had resigned his Estate, and designed him for his Successor.* And lastly, *Because he was of the Blood-Royal, and* NEXT HEIR MALE UNTO KING *RICHARD.* B

In this Claim he takes no notice of any Election by the People, nor doth own the least Right in them to elect him; but founds his Title upon Conquest, and Proximity of Male-Blood, and Donation of *Richard* the Second. C

Hen. 4, 5, & 6.

Henry the Fourth, Fifth and Sixth held the Crown by Usurpation, without much disturbance, until the thirty ninth Year of *Henry* the Sixth; [3] when *Richard* Duke of *York* put in his Claim, as Heir to *Philippa, Daughter and Heir to* Lionel, *the* **third gotten** *Son of King* Edward *the Third*; *to whom the Right, Title, Dignity Royal, and Estate of the Crowns of the Realms of* England, *and of* France, *and of the Lordship and Land of* Ireland, *of Right, and Law, and Custom appertaineth and belongeth, before any Issue of* John *of* Gaunt, *the* **fourth gotten** *Son of the same King* Edward.

[3] Rot. Parl. 39 H. 6. n. 11. *Richard* Duke of *York* his Claym. D

Ibid. n. 12.

The Lords Spiritual and Temporal, the Question being put, what they thought of the Duke's Claim, answer, that *The Matier was so high, and of such wyght, that it was not to any of the King's Subjects to enter into Communication thereof, without his high Commandment, Agreement and Consent had thereto.* E

Ibidem.

The Duke pressing for an Answer, all the Lords went unto the King, and opened the Claim by the Mouth of the Chancellor of *England*; and it pleased him to *pray and command all the said Lords, that they should search, as much as in them was, to find all such things as might be object, and leyde against the Cleym and Title of the Duc.*

Ibidem.

Whereupon, in the Morning, *October* 18. the Lords sent for the King's Justices to defend his Title, against the Claim of the Duke of *York*; and in the King's Name, streightly commanded them to find all Objections as might be laid against the same, in fortifying of the King's Title. F

Who,

Who, on Monday following, on the 20th of *October*, anſwered, that the matter was ſo high, and touched the King's high Eſtate and *Regalie*, which is above the Law, and paſſed their Learning: Wherefore they *durſt not enter into any Communication of the ſame*, for that it pertained to the Lords of the King's Blode, and *th'Apparage of this his Londe; and therefore beſought all the Lords to have them utterly excuſed.* Ibidem.

A

Then the Lords ſent for all the King's Serjeants and Attorney, and gave them ſtreight Commandment in the King's Name, that they *ſadly* and *aviſely ſhuld ſerch*, and take all ſuch things as might be beſt and ſtrongeſt to be *allegged* for the King's *Avail* in Objection, and defeating of the Title, and Cleym of the Duc. Ibidem.

They anſwered, thas if this *matier paſſed the Lerning of the Juſtices, it muſt needs exceed their Lerning: and alſo that they durſt not enter into any Communication in that matier: and prayed and beſought all the Lords to have them excuſed by geveing any Advice or Counſel therein. But the Lords would not excuſe them: and therefore, by their Advice and Aſſiſtance, it was concluded by all the Lords, that the Articles following ſhould be objected againſt the Glayme and Title of the Duc.* Ibidem.

B

C

'First, It is thought that the Lords of this Lond, muſt needs call 'to their remembrance the great Oaths the which they have made to 'the King, the which may be *leyd* to the ſaid Duc of *York*; and that 'the Lords may not break their Oaths. Ibid. n. 13.

'*Item*, It is thought alſo, that it is to be called to remembrance the '*great* and *notable Acts of Parliament* of divers of the King's Proge-'nitors. The which *Acts* be ſufficient and reaſonable to be *leyd* agene '*the Title of the ſaid Duc of* York. The which Acts be of much D 'more Authority than eny Chronicle; and alſo of Authority to de-'fete eny manner of Title, made to eny Perſon.

'*Item*, It is thought that there is to be leyd ayent the Title divers '*Inteyles* made to the *Heirs Males* of *Henry* the Fourth, as for the 'Crown of *England*, as it may appear by divers Chronicles and Par-'liaments.

E '*Item*, It is thought, to be allegged the Title of the ſeid Duc, that 'the tyme that King *Henry* the Fourth toke upon him the Corone of '*England*, *he ſaid he entered and toke upon him the Corone as right In-'heritor to King* Henry *the Third*, and not as a Conqueror.

To which Articles the Duke anſwered.

F

Firſt, That no Oath being the Lawe of Man, ought to be performed, when the ſame leadeth to ſuppreſſion of Truth and Right, which is againſt the Lawe of God. Ibid. n. 14.

To the ſecond and third, That in *trouth* there been noo ſuch *Acts* and *Tayles* made by eny Parliament heretofore, as it is ſurmiſed, *but oonly in the* [4] *ſeventh yere of King* Henry *the Fourth, a certain Act and Ordinance was made in a Parliament by him called, wherein he made* Ibid. n. 15.

[4] Cap. 2.

the

the Reaums of Englond *and* France, *amongſt other, to be unto him, and to the Heires of his Body comeing, and to his four Sons, and to the Heires of their Body comeing, in manner and fourme as it apperith in the ſame Act.* And if he might have obteyned and rejoyſed the Corones, *&c. by Title of Inheritance, Diſcent, or Sueceſſion, He neither needed or would have deſired or made thaim to be granted to him in ſuch wyſe as be by the ſaid Act, which tacketh noo place, neither is of eny force or effect ayenſt him that is right Inhæriter of the ſayd CORONES, as it accordeth with Gods Lawe, and all Natural Lawes;* howe it be that all other Acts and Ordinances made in the ſeyd Parliament ſithen, been good and ſufficient ayenſt all other Perſons. A

Ibid. n. 17. To the fourth, *That ſuch ſeyeing of the King* Herry *the Fourth, may in no wyſe be true; and that the contrary thereof, which is trouth, ſhall be largely enough ſhewed, approved, and juſtified by ſufficient Autorite, and matter of Record; and over, that his ſeyd ſeying was only to ſhadowe and cover fraudulently his ſeyd unrightwyſe and violent Uſurpation, and by that moyen to abuſe diſceyveably the People ſtanding about him.* B

Ibid. n. 18. Upon conſideration of this Anſwer, and Claim of the Duke of *York*, it was concluded and agreed by all the Lords, That his *Title* could not be DEFETED; and therefore for *eſchuying the great Inconvenients that may enſue, a mean was found to ſave the King's Honor and Eſtate, and to appeaſe the ſaid Duc, IF HE WOULD*; which was, That the King ſhould *enjoye the Corone during Life*, the Duke to be *declared* the *true Heir*, and to *poſſeſs* it after his Death, *&c.* C

The Ground and Foundation of Succeſſion to the Crown declared in Parlement.

In the firſt Article of this Agreement, or Accord, (as 'tis there called) the Title of the Duke of *York* is ſet forth; and the *Judgment* of the *Parliament* given, what then was, and before had been the *Foundation* and *Ground* of the *Succeſſion* to the Crown of *England*, that is, *Proximity* of Blood. The Articles follow, ſo much of them as is pertinent to this matter. D

Firſt, Where the ſeyd *Richard* Duc of *Yorke* hath declared and opened, as above, his ſeyd *Title* and *Cleyme* in manner as followeth. *That the right noble and worthy Prince* Herry *King of* Englond *the Third, had Iſſue and leefully gate* Edward *his firſt-begotten Son, born at* Weſtminſter *the* xv Kalend. *of* Juyle, *in the Vigil of St.* Mart. & Marcellian. *the Yere of our Lord* M. CC. XXXIX. *and* Edmund *his ſecond goten Son, which was born on Seint* Marcell. *day, the Yere of our Lord* M. CC. XLV. *The which* Edward, *after the death of the ſeyd King* Herry *his Fader, entituled and called King* Edward *the Firſt, had Iſſue* Edward *his firſt-begoten Son, entituled and called after the deceaſe of the ſeyd firſt* Edward *his Fader, King* Edward *the Second; which had Iſſue and leefully gate the ryght Noble and Honourable Prynce* Edward *the Third, true and undoubted King of* Englond, *and of* France, *and Lord of* Ireland: *Which* Edward *the Third, true and undoubted King of* Englond, *and of* France, *and Lord of* Irelond, *had Iſſue and leefully gate* Edward *his firſt begoten Son, Prynce of* Wales; William Hatfield, *ſecond-begoten;* Leonell, *third-begoten, Duc of* Clarence; John of Gaunt, *fourth-begoten, Duc of* Lancaſter; Edmund Langley, *fifth-begoten, Duc of* Yorke; Thomas Woodſtock, *ſixth-begoten, Duc of* Glouceſter; *and* William Wyndeſore, *the ſeventh-begoten.* E F

The

The ſeyd Edward *Prynce of* Wales, *which dyed in the lyfe of the ſeyd* Edward *King, had Iſſue and leefully gate* Richard, *the which ſucceeded the ſame* Edward *King, his Grandfather, in Royal Dignity, entituled and called King* Richard *the Second, and dyed without Iſſue.* William Hatfield, *the ſecond-goten Son of the ſeyd* Edward *King, dyed without Iſſue.* Leonell, *the third-goten Son of the ſame King* Edward, *had Iſſue and leefully gate* Philippa *his oonly Daughter and Heir, which by the*
A *Sacrament of Matrymony copled unto* Edmund Mortimer *Erle of* March, *had Iſſue and leefully bare* Rogier Mortimer *Erle of* March, *her Son and Heir: Which* Rogier *Erle of* March *had Iſſue and leefully gate* Edmund *Erle of* Marche, Rogier Mortymer, Anne, *and* Alianore; *which* Edmund, Rogier, *and* Alianore *dyed without Iſſue: And the ſeyd* Anne, *under the Sacrament of Matrymony, copled unto* Richard *Erle of* Cambridge, *the Son of the ſeyd* Edmund Langley, *fifth-begoten Son of the ſeyd King* Edward, *as it is afore ſpecified, had Iſſue and leefull,*
B *bare* Richard Plantagenet, *commonly called Duc of* Yorke: *The ſeyd* John of Gaunt, *the fourth-goten Son of the ſeyd King* Edward, *and younger Brother of the ſeyd* Leonell, *had Iſſue and leefully gate* Henry *Erle of* Derby, *which incontinent after the tyme that the ſeyd King* Richard *reſigned the Corones of the ſeyd Reaumes, and the ſeyd Lordſhip of* Ireland, *unrightwyſely entered upon the ſame, then being on live* Edmund Mortymer *Erle of* Marche, *Son to* Rogier Mortymer *Erle of*
C March, *Son and Heir of the ſeyd* Philippa, *Daughter and Heir of the ſeyd Sir* Leonell, *the third Son of the ſeyd King* Edward *the Third; to the which* Edmund *the Ryght and Title of the ſeyd Corones and Lordſhip by Lawe and Cuſtome belonged.*

Before we paſs over theſe three Uſurpers, we muſt take notice of a Paſſage in *Polydore Virgil* concerning *Henry* V. in theſe words: *Princeps* Hen. *facto Patris funere, Concilium Principum ad* Weſtmonaſterium *convocandum curat, in quo dum de Rege* creando *more majorum agitabatur, Ecce tibi de repente aliquot Principes ultro in* EJUS *VERBA jurare cæperunt. Quod Benevolentiæ Officium* [1] *nulli antea priuſquam Rex renuntiatus eſſet, præſtitum conſtat: adeo* Hen. *ab ineunte ætate ſpem omnibus optimæ indolis fecit. Creatur itaque Rex ad quintum Iduum* Aprilis *eo Anno quo Pater e vita exceſſerat, & Quintus ejus Nominis* Henricus *dictus eſt.*

Lib. 22. ſub initio, fol. 433. n. 30.

The [2] Author of the *Brief Hiſtory of Succeſſion* thus renders this Sentence: Immediately upon the death of *Henry* the Fourth a Parliament [3] MET at *Weſtminſter*, and there, according to the Cuſtom of the Realm, it was debated who ſhould be King: But all men had entertained ſo good thoughts of Prince *Henry*, that without ſtaying till the whole Aſſembly had declared him King, divers of them began to ſwear Allegiance to him; a thing ſtrange, and without preſident, as only occaſioned by extraordinary Opinion which was generally conceived of him before, and the certain Title veſted in him by [4] Act of Parliament.

In his Citation of the Latin, he leaves out theſe Words which belong to this piece of Story, and do declare the meaning of it: *Creatur itaque Rex ad quintum Iduum* Aprilis *eo Anno quo Pater e vita exceſſerat*, &c. He was Crowned King on the fifth of the *Ides* of *April*, the ſame year his Father died.

[1] Edw. I. *was in* Paleſtina *when his Father died, yet acknowledged K. before his return. K.* John *was acknowledged King before his Coronation alſo.*

[2] Fol. 7.

[3] *The words are* Concilium Principum convocandum curat. *If this was a Parliament, he muſt be King before he could call it.*

[4] *He means the Act of Entail of the Uſurpation,* 7 H. 4. c. 2.

Tho. Walsingham who lived at this time, says, *Henry* the Fourth died *March* 20. 1413. And then, *eodem Anno Coronatus* Londoniis Henricus *Primogenitus Regis* Henrici *nuper defuncti quinto Iduum* Aprilis, *&c.* The same year *Henry* the First-born of King *Henry* lately deceased, was Crowned at *London* on the fifth of the Ides or tenth of *April*. By which words of *Walsingham* 'tis evident he hath mistaken the meaning, and falsly translated the Words of *Polydore*; for they ought to be Englished in this manner. A

Prince *Henry* having buried his Father, caused a Council of the Chief Men of the Nation to be called at *Westminster*, in which they treat, or debate about Crowning the King, according to the Custom of his Predecessors; forthwith some of the Great Men began to swear as he *dictated to them*, which *officious Benevolence* was performed to *none before he* was declared King; such hope he had given from his Childhood of an excellent Disposition: therefore he was Crowned King on the fifth of the Ides of *April*, that Year his Father died, and was called *Henry* the Fifth. An intelligent Man would wonder how the Writer of the *Brief History, &c.* should *SQUEEZE* his *Translation* out of these Latin words. B

But *Polydore*, who, as I hinted before, was very unfit to write the English History, hath very odly in Latin express'd this Relation, as he likewise hath done many other Stories. His Character take from Sir *Hen. Savile*, in his Epistle to Queen *Elizabeth*, before his Edition of the old English Writers after *Bede*. *Polydorus* (saith he) *ut homo Italus, & in rebus nostris hospes (&quod caput est) neque in Republica versatus, nec magni alioqui vel judicii, vel ingenii, pauca ex multis delibans, & falsa plerumque pro veris amplexus, Historiam nobis reliquit cum cætera mendosam tum exiliter sane & jejune conscriptam. Polydore*, as he was an *Italian*, and a Stranger in our Affairs, and, which was the chief matter, not understanding our Government and Laws, nor otherwise of great Wit or Judgment, chusing a few things out of many, and oft-times taking false things for true, hath left us a very faulty History, slightly and pitifully written. C D

Edward the Fourth. [5] Rot. Parl. 1 Edw. 4. n. 9, 10, 11, 12, 13, &c.

After the Reign of these three Usurpers, and Deposition of *Henry* the Sixth, in the [5] first of *Edward* the Fourth, the Proceedings against *Richard* the Second are Repealed, where 'tis said, That *Henry* Earl of *Derby*, afterwards *Henry* the Fourth, *temerously ayenst ryghtwisnesse and Justice, by Force and Arms, ayenst his Faith and Ligeance, rered Werre at* Flynt *and* Wales *ayenst King* Richard *the Second, him tooke, and imprisoned in the Tower of* London, *in great violence, and usurped and intruded upon the Royal Power, Estate, Dignity*, &c. *And not therewith satisfied or content, but more grievous thing attempting, wickedly, of unnatural, unmanly, and cruel Tyranny, the same King* Richard, *King Anointed, Crowned, and Consecrated, and his Liege and most Soveraigne Lord in Earth, against Gods Lawe, Mans Ligeance, and Oath of Fidelity, with uttermost punicion, attormenting, murdered, and destroyed, with most vile, hainous, and lamentable Death*, &c. E F

Ibidem.

The Commons being of this present Parliament, having sufficient and evident knowledge of the said *unryghtwyse Usurpation* and *Intrusion*, by the said *Henry* late Earl of *Derby*, upon the said Crown of *England*,

England; knowing alſo certainly, without doubt and ambiguity, the Right and Title of our ſaid Soveraigne Lord thereunto true, and that by Gods Lawe, Mans Lawe, and the Lawe of Nature, he, and none other, is, and ought to be, their true, *ryghtwyſe*, and natural Liege, and Soveraigne Lord, and that he was in right from the Death of the ſaid Noble and Famous Prince his Father, very juſt King of the ſaid Realm of *England*, doe take, accept, and repute, and will for ever take, accept, and repute the ſaid *Edward* the Fourth, their Soveraigne and Liege Lord, and him and his Heirs to be Kings of *England*, and none other, according to his ſaid Right and Title.

And that the ſame *Henry* unryghtwyſely, againſt Lawe, Conſcience, and Cuſtome of the ſaid Realm of *England*, uſurped upon the ſaid Crown and Lordſhip; and that he, and alſo *Henry* late called King *Henry* the Fifth, his Son, and *Henry* late called King *Henry* the Sixth, his Son, occupied the Realm of *England* and Lordſhip of *Ireland*, and exerciſed the Governance thereof, by *unryghtwyſe*, *Intruſion*, *Uſurpation*, and no otherwiſe. Ibidem.

That the Amotion of *Henry*, late called King *Henry* the Sixth, from the *Exerciſe*, *Occupation*, *Uſurpation*, *Intruſion*, *Reign* and *Governance* of the ſame Realm and Lordſhip, done by our Soveraigne Lord King *Edward* the Fourth, was and is *rightwyſe*, *lawfull*, and according to the *Lawes* and *Cuſtomes* of the ſaid Realme, and ſoe ought to be taken, holden, reputed, and accepted. Ibidem.

Further. Some, if not all the Grants made by *Henry* Earl of *Derby*, called *Henry* the Fourth, the ſaid *Henry* his Son, or the ſaid *Henry* called *Henry* the Sixth, or by *Authority* of any *pretenced* Parliament, in *any of their days*, were reputed *null* and *void*. Ibidem.

That the unrightwyſe and *unlawful Uſurpation* and Intruſion of the ſame *Henry* upon the Crown of *England* and Lordſhip of *Ireland*, was to the great and intolerable hurt, prejudice, and derogation of *Edmund Mortimer* Earle of *March*, *next Heir* of *Blood* of the ſaid King *Richard* at the time of his Death, and to the *Heirs* of the ſaid *Edmund*, and to the great and exceſſive Damage unto the Realm of *England*, and to the *politick* and *peaceable* Governance thereof, by inward Wars, moved and grounded by occaſion thereof. Ibidem.

In the Firſt of *Richard* the Third, the [1] Three Eſtates, after having much *faulted* the *Government*, *Marriage*, and Perſon of *Edward* the Fourth, and affirmed, That the *Right* and *Title* of the Iſſue of *George* Duke of *Clarence* was barred by his Attainder, and *extolling the Parts*, *Wiſdom*, *and Juſtice of* Richard *his Brother*, declared him *undoubted* Heir of *Richard* Duke of *York*, Father to *Edward* the Fourth, *very Inheritor* of the Crown of *England*, and Dignity Royal, and *as in Right* King of *England* [2] *by way of Inheritance*; and therefore having in his great prudent Juſtice, Princely Courage, and excellent Virtue, ſingular Confidence, did by Writing (in all that in them lay) *chuſe* him their King and Sovereign Lord, to whom they knew of certain it apperteined to be ſo choſen, *&c.* *Richard* the Third.

[1] Exact Abridgment, fol. 712. *In this Abridgment the whole Record of* 1 R. 3. *is printed.*

[2] Ibid f. 713

Ibidem. And do further declare, That the *Right*, *Title*, and *Estate* which King *Richard* the Third had to, and in the *Crown*, and Royal Dignity of the Realm of *England*, with all things thereunto within the said Realm, and without it, annexed and apperteining, was just and lawful, as grounded upon the *Laws* of God and *Nature*, and also upon the *antient Laws* and *laudable Customes* of this said Realm, as also taken and reputed by all such *Persons* as were *learned* in the aboveſaid Laws and Customs. A

[3] Ib. f. 714. And then they proceed, and say, Yet nevertheless, forasmuch as it is considered that the most part of the People is not *sufficiently* [3] *learned* in the aforesaid *Laws* and *Customs*, whereby the *Truth* and *Right* in this behalf of likelyhood may be hid, and not clearly *known* to all the People, and thereupon put in doubt and question. And over this, how that the *Court of Parliament* is of such *Authority*, and the People of this Land of such a nature and disposition, as *Experience* teacheth, that *Manifestation* or *Declaration* of any *Truth* made by the *Three Estates* of this Realm assembled in Parliament, and by *Authority* of the same, maketh before all other things most faithful and certain quieting of Mens minds, and removeth the occasion of Doubts and seditious Language. B

Ibid. f. 717. Therefore at the Request, and by the Assent of the *Three Estates* of this Realm, *THAT IS TO SAY*, *The Lords Spiritual and Temporal, and Commons of this Land, assembled in this present Parliament*, and by the Authority of the same, be it *pronounced, decreed, and declared*, That our said Sovereign Lord the King, *was* and *is* the very undoubted King of this Realm of *England*, with all things thereunto belonging, within the said Realm, and without it, united, annexed, and appertaining, as well by Right of *Consanguinity* and *Inheritance*, as by lawful *Election*, *Consecration*, and *Coronation*. C

Election *here can signifie nothing but* Recognition. *Hereditary* Right, and Right of *Blood*, was the Ground of this Establishment. D

Henry the Seventh having no Hereditary Title of his own, and being always [1] averse to take upon him the only *true* and *undoubted Title* of his Queen, eldest Daughter and Heir to *Edward* the Fourth, procured an Act of Parliament [2] That the *Inheritance* of the Crown of the Realms of *England* and *France*, with all the Preheminencies and Dignities Royal to the same appertaining, and the Ligeances to the King belonging beyond the Seas, *&c. shall be, rest, remain, and abide* in the most Royal Person of our most Sovereign Lord *Henry* the Seventh, and in the Heirs of *his Body* lawfully coming, perpetually, and so to endure, and no otherwise. E

Henry the Seventh.
[1] Bacon's *Hist.* f. 7.
[2] Rot. Parl. 1 H. 7.

It may be noted from these words, That the *Inheritance* of the Crown should *rest, remain*, and *abide* in the King, *&c.* That he designed not a Declaration or Recognition of his Right, but rather an *Establishment* of that *Possession* he had gotten *by the Sword*; for not *thinking* this Act a *Sufficient Security* for him, nor depending on this *Parliamentary Title*, he extended his pretences beyond this Establishment, in as much as he procured it to be confirmed the year following by the *Bull* of *Pope Innocent* the Eighth, in which this Statute, F

with

with his *Titles* of *Conqueſt*, and *Deſcent*, are *mentioned* and *confirmed*. * The Bull ſays, That the Kingdom of *England* belonged to him by undubitable right. *Non modo jure Belli, ac notorio & indubitato proximo ſucceſſionis Titulo, verum etiam omnium Prælatorum, Procerum, Magnatum, Nobilium, totiuſque ejuſdem Regni* Angliæ *plebis Electione, & noto ac decreto ſtatuto & ordinatione ipſius* Angliæ *Regni trium Statuum, in ipſorum conventu Parliamento nuncupato* :

* In Cotton. Libr. Cleopat. E. 3.

A

That is, Not only by the right of War, and the notorious and indubitable next * *Title* of *Succeſſion*, but alſo by the election of all the *Prelates*, and *Great Men*, and of the whole *Commonalty* of the Kingdom of *England*, and by a known and decreed Statute and Ordinance of the *Three Eſtates* of the ſame Kingdom of *England*, in their *meeting* called a *Parliament*.

* *It is true, if meant in right of his Queen.* And note, *He prefers his Title by Conqueſt and Succeſſion, before that by Act of Parliament.*

B

And afterward in the Thirteenth of his Reign, he got his Bull *renewed* and the *Act* confirmed again by * Pope *Alexander* the Sixth, under pain of Excommunication, and Curſe to ſuch as ſhould upon any pretence whatſoever, diſturb the *Peace* of the Nation, and *create* troubles againſt this *Title* of *Henry* the Seventh.

* Ibidem.

So that notwithſtanding this Act of Parliament, which was cunningly penned to eſtabliſh his *Poſſeſſion* he had obtained *by the Sword*,

C

He thought that, and the *Popes Bulls* of *Confirmation* his *beſt Title*, yet not omitting his own *pretended indubitable next Right* of *Succeſſion*.

Henry the Eighth, next Heir to the Crown by *Proximity* of *Blood*, as right Heir to his Mother *Elizabeth*, Daughter and right Heir to *Edward* the Fourth, ſucceeded his Father in his Kingdom; who in all *Extravagant* Acts concerning his *Queens* and the *Succeſſion*, ever founded it in pretended legal *Proximity* of Blood, and Lawful next *Heirs* of

Henry the Eighth.

D

Blood, according to the *due courſe* of *Inheritance*; the pretended want of which, was the only *ſuggeſtion* for paſſing theſe Acts.

In the Twenty fifth of *Henry* the Eighth there was an Act for the Succeſſion; the preamble this. *In their moſt humble wiſe ſhewen unto your Majeſty your moſt humble and obedient Subjects the Lords Spiritual and Temporal, and Commons in this preſent Parliament*, &c. *That ſince it is*

Cap. 22. *The Firſt Act of Entail of the Crown*, 25 Hen 8.

E

the natural inclination of every man to provide for the ſurety both of his Title and Succeſſion, although it touch his only private Cauſe; we therefore reckon our ſelves much more bounden to beſeech and inſtant your Highneſs to foreſee and provide for the perfect ſurety of both you, and your lawful Succeſſion, and Heirs, upon which dependeth all our joy and wealth, in whom alſo is united and knit the only meer * TRUE INHERITANCE, *and* TITLE *of this Realm without any contradiction.* And then mentions, that certain diviſions aroſe upon *ambiguities*, and *doubts* not perfectly declared from froward intents, to

* *As being the Iſſue and Heir of both Houſes of* York *and* Lancaſter.

F

expound them contrary to the *right legalty* of the *Lawful Succeſſion*, and *poſterity* of the *lawful* Kings and Emperors of this Land.

After this confirming the Divorce of *Queen Katherine*, as alſo the King's Marriage with *Anne Boleyn*, the Parliament entayles the Crown upon him and his *Heirs Male* by her, and for want of ſuch *Iſſue* upon

upon *Elizabeth* their eldeſt Daughter, and their *Heirs* Females according to the *due courſe* of *Inheritance*.

From whence it appears, that the Succeſſion was founded upon *Inheritance*, and the deſign of the Act was, that *Henry* the Eighth might have Lawful Iſſue to *inherit* the Crown, that ſo all *Ambiguities*, and *Doubts* about the *Succeſſion* might be taken off. And all the Kings *Subjects* were *bound*, under pain of *Miſpriſion* of Treaſon, to *ſwear* to obſerve the *Contents* of this Act. A

The 2d Act of Succeſſion, 28 Hen. 8.

The Act for Succeſſion, 28 *Hen.* 8. c. 7. affirms there were many *Lawful impediments*, *unknown* at the making of the Act of *Succeſſion*, 25 *Hen.* 8. c. 22. which ſince that time were *confeſſed* by the Lady *Anne before Thomas Archbiſhop* of *Canterbury* ſitting Judicially for the ſame: By reaſon of which *Impediments*, the Kings Marriage with her was *never good*, *nor conſonant to the Laws*; and therefore Queen *Elizabeth* was declared *Illegitimate*, and it was *declared Treaſon* for any Man to *judge* or believe the *Marriage* between the King and the Lady *Katherine*, or *Anne*, to be *good*, *lawful*, *or of any effect*. It was alſo in this Act declared Treaſon *for any one to take*, *accept*, *name*, *or call any of the Children born and procreate under thoſe unlawful Marriages*, *legitimate*, *or lawful Children of the King*. And therefore the Crown was ſettled upon the King and his *Heirs Males* by his *Lawful Queen Jane*; and for want of ſuch Iſſue by her, upon his *Heirs Males* by any other *Lawful Wife*; and for want of *Heirs Males*, upon his *Heirs Females* by Queen *Jane*, or any other *lawful Wife*. And for lack of *Lawful* Heirs of his Body to be *procreated* and *begotten* as is limited by this Act, to ſuch Perſon and Perſons in Poſſeſſion and Remainder, as ſhould pleaſe the King; and according to ſuch *Eſtate*, and after ſuch *manner*, *form*, *faſhion*, *order*, and *condition*, *as ſhall be expreſſed*, *declared*, *named*, *and limited by his Letters Patents*, *or by his laſt Will*. And then follows, And we your moſt humble and obedient Subjects, do *faithfully promiſe* to your Majeſty by one *Common Aſſent*, That after your deceaſe, and for lack of Heirs of your Body lawfully begotten, as is afore rehearſed, We, our *Heirs* and *Succeſſors*, ſhall *accept* and *take*, *love*, *dread*, *ſerve*, and alonely obey, ſuch *Perſon* and *Perſons*, *Males* or *Females*, as your Majeſty ſhall *give* your ſaid Imperial Crown unto, by *Authority* of this Act, and to *none* other; and wholly to *ſtick* to them as *true* and *faithful* Subjects ought to do to their *Regal Rulers*, *Governours*, and *Supream Heads*.

Pult. Stat. f. 628, 630. Ibid. f. 633. B

Ibidem. C

Ibid. f. 631. D

Ibid. f. 632. E

Ibidem.

To provide for *Lawful Heirs* was the *pretended Ground* of this *Act* of *Succeſſion*; not to *exclude* them, and to give the King a *ſtrange unheard* of *Power* to diſpoſe of the Crown, *&c.*

The Third Act of Entail, 35 of Hen. 8.

The Thirty fifth of *Henry* the Eighth, *cap.* 1. *recites* how the Crown was *entailed*, 28 *Hen.* 8. and what Power was *given* to him to *diſpoſe* of the Crown. To the *intent* therefore, that His Majeſty's diſpoſition and mind therein *might* be *openly declared*, and *manifeſtly known*, His Majeſty deſigning a Voyage beyond Sea; it was enacted by his Highneſs, with the Aſſent of the Lords Spiritual and Temporal, and Commons in Parliament aſſembled, and by Authority of the ſame, That in caſe it ſhould happen, the *King's Majeſty*, and *Prince Edward*, *Heir Apparent*, to die without Iſſue of their Bodies lawfully begotten, ſo F

ſo as there be no *Heirs Male* or *Female* of either of their Bodies to have and inherit the ſaid Imperial Crown, that then it ſhould be to his *Daughter Mary*, and her *Heirs lawfully to be begotten under ſuch Conditions as ſhould be limited by the King's Letters Patents, or his laſt Will: And for default of Iſſue, to his Daughter* Elizabeth *upon the ſame Conditions.* But if no Conditions were appointed, then the *Succeſſion* to each of them, one after another, abſolutely.

A

And for want of Heirs by his Queen *Katherine*, his Lawful Wife; and for want of Lawful Iſſue of Prince *Edward*, his Daughters *Mary* and *Elizabeth*, then the King to *diſpoſe* of the *Crown* at his only pleaſure from time to time.

All theſe *Acts of Succeſſion* were made by the King's *Sollicitation, Authority, Command*, or other *Procurement*; and were not otherwiſe *moved, contrived*, or *offered* to him.

All the Acts of Entail, in the Time of Hen. 8 *were of his own Sollicitation.*

B

In the Firſt of Queen *Mary* there is an Act, declaring the Queens Highneſs to have been born in moſt juſt and faithful Matrimony; and alſo *repealing* all *Acts* of *Parliaments* and *Sentence* of *Divorce* made or had to the contrary. The intention of this Act was to declare the *Succeſſion* to be in *Inheritance* by Right of Blood.

1 Mar. Seſſion. 2. c. 1. *Queen* Mary.

C

In the Firſt of *Elizabeth*, the Lords Spiritual and Temporal, and Commons do declare and confeſs that Queen *Elizabeth*, and in *very deed, and of moſt meer Right, ought to be, by the Laws of God, and the Laws and Statutes of this Realm, their moſt rightful and lawful Sovereign Queen:* And that ſhe was *rightly, and lineally, and lawfully deſcended and come of the Blood-Royal of this Realm of* England; *in and to whoſe Princely Perſon, and the Heirs of her Body lawfully begotten after her, without all Doubt, Ambiguity, Scruple or Queſtion, The Imperial Crown and Dignity of this Realm was really and entirely veſted.* In this Law (whether it were true or not in her) the *right, lineal* and *lawful Deſcent* of Queen *Elizabeth* was the *Ground* upon which ſhe was *declared* to be by *God's Laws*, and the *Laws* and *Statutes* of this *Realm, moſt rightful and lawful Queen.*

1 Eliz. c. 3. *Queen* Elizabeth.

D

And whatever ſhe and her *Council* ſecretly thought of her own *Perſonal Title*; Yet upon the *Treaty* of *Marriage* with the *Duke* of *Anjou*, in the Anſwer to the Sixth Article delivered by the *French* Ambaſſador, it is declared, That the *Succeſſion* in her Kingdoms *was, and ought to be Hereditary*, according to nearneſs in Blood. The words are, *Liberi ex hoc Matrimonio prognati in materna hæreditate ſuccedent in regnis, ſecundum jura & conſuetudines regnorum, viz. primogenitus filius in Coronam quam Regina mater habet, & ſi nulli extabunt filii Maſculi, filiæ ſi extabunt, viz. prima & ſola maxima natu, &c. Atque idem ut fiat in hæreditate paterna æquum eſt, & quomodo conſuetudines locorum id ferent, intelligi par eſt.* That is, The Children begotten of this Marriage ſhall ſucceed in the *Mothers Inheritance* in the Kingdoms, according to the Laws and Cuſtoms of the Kingdoms; that is to ſay, The *Firſt born Son* ſhall enjoy the Crown which the Queen Mother hath. And if there be no Iſſue Male, the Daughters, if there be any, ſhall ſucceed; that is to ſay, the *Eldeſt firſt*, and *alone, &c.* And that it is juſt, the *Succeſſion* ſhould obtain after the ſame

The Compleat Ambaſſador. f. 85, 86, 87.

E

F

same manner in the *Paternal Inheritance*, if the Custom of the places would allow it.

King James. After the death of Queen *Elizabeth*, the *Act of Recognition*, made upon King *James* his coming to the Crown, *doth not take notice of the Title raised by Act of Parliament to* Henry *the Seventh, and the Heirs of his Body:* But declares [1] that he was *Lineally, Rightfully and Lawfully descended of the Body of the most excellent Lady* Margaret, *eldest Daughter of the most renowned King* Henry *the Seventh, and the high and noble Princess, Queen* Elizabeth, *his Wife, eldest Daughter of King* Edward *the Fourth.* The said Lady *Margaret* being eldest Sister of King *Henry* the Eighth, Father of the High and Mighty Princes of Famous Memory, *Elizabeth*, late Queen of *England*: [2] In consideration whereof, the Parliament doth acknowledge King *James* their only *Lawful* and *Rightful Liege Lord* and *Sovereign.* [3] And further say, as being *bound thereunto both by the Laws of God and Man*, they do *recognize* and *acknowledge* [4] that *Immediately upon the Dissolution and Decease of* Elizabeth, *late Queen of* England, *the Imperial Crown of the Realm of* England, *and all the Kingdoms, Dominions and Rights belonging to the same, did by inherent Birthright, and lawful and undoubted Succession, descend and come to His most excellent Majesty, as being lineally, justly and lawfully* next, *and* SOLE HEIR *of the* Blood-Royal *of this Realm*, as it is aforesaid. And thereunto they do most humbly and faithfully *submit* and *oblige* themselves, their *Heirs* and *Posterities* for ever, until the last drop of their Bloods be spent?

[1] 1 Jac. c. 1.

[2] Ibidem.

[3] Ibidem.

[4] Ibidem.

☞

What can be clearer, than that the *Succession* to the Crown of *England* was always *thought, judged, had, taken* and *reputed* to be from *Nextness* of Blood, by the Opinion of all sober Men, by *Law* and *Custom*, by this and other *Acts* of Parliament, and *Statutes* before cited.

This then being the *true History* and *Case* of *Succession* to the Crown of *England*, and its being only founded upon Proximity of Blood, the Author of the *Brief History of Succession*, &c. ought to have called it *An History of Usurpations, Seditions and Rebellions.* It was written and intended for a *purpose* he will not own; that is, to shew, that *In the* English *Monarchy there is not Right of Succession*; but that *Parliaments* or *Armies* may set up whom they please.

This, I confess, hath been practised in this Nation; and it was the main Cause of the War between the Families of *York* and *Lancaster*; that proceeding from the *Right* of the one Party, and *Possession* of the other, and the *Contrarieties* of *Acts* of Parliament, was caused by the *Alternate Victories* of both.

But the doing of a thing makes it not lawful: *Repeated Wickedness*, or the *frequent Repetition* of Wickedness, gives no *Authority* to any one to *commit* that Wickedness, as the *frequency* of *Adulteries* or *Robberies*, doth not justifie either of them.

I think it's no good *Argument* to say, *Edward* the Second was *deposed* and *murdered*; therefore *Richard* the Second might be *deposed* and

and *murthered*; or, That they were both *depoſed* and *murthered*, therefore *Charles* the Firſt might be *depoſed* and *murthered*; or, Becauſe *King Charles* the Firſt was *depoſed* and *murthered*, therefore *King Charles the Second* may be *depoſed* and *murthered*.

Precedents are of *force* only in things *lawful*, *obſcure* or *dubious*, but never in things *unjuſt*.

A

The Depoſitions and Murthers of *Edward* the Second and *Richard* the Second, the *Uſurpations* and unlawful Actions of *Henry* the Fourth and *Richard* the Third, were in their own times *condemned* by all good Men, even as the *Actions* of that Parliament began in 1641. in ours, which I ſuppoſe is the *reaſon* why the Author of the *Pamphlet* brings not them in as a *Precedent*; which would have ſerved his *turn* better than all his other Inſtances.

B

But beſides their *impious Inſtances*, we ought to take notice of the *Expreſſions* of theſe Men of *Jeſuitical Principles*. They call *Uſurpation* the *Election* of the People; a *Faction*, the *Commonwealth*; the *Actions* of *a few they impute to all*; *They call Rebellion a juſt and judicial Proceeding*; *often and open Perjury, an orderly Revoking of a Sentence*; *God's ſecret Judgment* in permitting Injuſtice to prevail, his *owning* and *allowance* thereof; the *Inconſiſtency* and preſent *Humour* of the *heedleſs Multitude*, (who *judge* of things, not by *Reaſon* or *Juſtice*, but either by *Opinion*, which commonly is partial; or elſe by *Report*, which is uſually full of *Incertainties* and *Errors*, the moſt part *Doing* becauſe others *Do*; all eaſie to be drawn in to ſerve any *wicked* and *ambitious* Mens *Attempts*) they call the preſumed *Will* and *Conſent* of the People: According to which (ſay they) the *Succeſſion* of the Crown is to be directed. And by theſe *Arts* they do very much *impoſe* upon their unwary Readers.

C

D

To this *Hiſtory* of *Succeſſion* belongs the Act of the *Thirteenth* of *Elizabeth*, cap. 1. Intituled, *An Act whereby certain Offences are made Treaſon*; which, as many *Great* and *Learned* Perſons think, was, upon the *Debate* and making of it, intended and deſigned to declare a Power in the *Queen* and her *Succeſſors* for ever, by Authority of Parliament, to make *Laws* and *Statutes* of ſufficient force and validity, to limit and bind the Crown of *England*, and the *Deſcent*, *Limitation*, *Inheritance* and *Government* thereof.

Rot. Parl. 13 Eliz. n. 1.

E

Sir *Edward Coke* [1] ſays, *Many Acts of Parliament are hardly to be underſtood, unleſs the Hiſtory of that time be joyned thereunto*. This Parliament met [2] *April* 2. 1571. 13 *Eliz.* and was diſſolved [3] *May* 29. following.

[1] 4 Inſtit. fol. 52.

[2] Pult. Stat.

[3] Com. Journ. mart. 29 Maii, f. 39.

F

This Parliament, we ſee, was holden in the beginning of the Year 1571. Some Years before, but moſt eſpecially in the Year 1570. immediately preceeding, there had been many *Practices*, and *Seditious* and *Treaſonable Contrivances* againſt Queen *Elizabeth*, by *Foreign*, as well as *Domeſtick* Enemies: By the Pope and King of *Spain*, Duke of *Guiſe* in *France*, Duke *d'Alva* in the *Netherlands*, the Fugitive *Engliſh*, *&c.* abroad: And at home, frequent *Conſpiracies* to deliver the Queen of *Scots* out of Priſon, *Attempts* upon the Queens Perſon, the

See Camden's Eliz. An. Dom. 1568, 1569, 1570, 1571.

Rebellion in the North by the Earls of *Northumberland* and *Westmerland*, the Match of the Duke of *Norfolk* with the Queen of *Scots*;
[4]Ibid.f.171 [4] her Usurpation of the Crown of *England*, with the Title and Arms thereof; and the Bull of Pope *Pius* the Fifth, by which he declared her a Heretick, and for pretended Heresie, Anathematized her, *&c.* and by his *Usurped* and only *pretended Papal Authority deprived* her of her *Title*, *Dominions* and *Kingdoms*, and absolved all her Subjects from their Obedience and Allegiance. A

[1]Ibid. 149. All these, but [1] more particularly the Pope's Bull, and the Conspiracy of *Norfolk*, created much trouble in the mind of Queen *Elizabeth*: And she sent to the Queen of *Scots*, *Cecil* and Sir *Walter Mildmay*, to consult with her by what means most conveniently the Dissentions of *Scotland* might be compounded, her self restored, and Queen *Elizabeth*, and her young Son, safe and secure.

B

Amongst the Propositions made to obtain these ends, these were
[2]Ib.f.1570. two, [2] *That the Queen of* Scots *should renounce her Title and Claim, as long as Queen* Elizabeth, *and the Children lawfully born of her Body should live. That if the Queen of* Scots *should attempt any thing by her self, or any other, against Queen* Elizabeth, *she should*, ipso facto, *forfeit all her Right and Title she claimed to* England.

C

To which the *Deputies* of the Queen of *Scots Lieutenants* answered, *That the Title should be renounced as long as Queen* Elizabeth *lived*: And *That the Queen of* Scots *should be excluded from all Right of Succession in* England, *if she attempted any thing against the Queen of* England's *Right, so as if the Queen of* England *would be likewise bound in some equivalent Penalty if she should attempt any thing against the Queen of* Scots.

D

There was no Agreement upon these, and other Propositions then made, because the *Scots* Deputies thought them too hard and severe, and not to be assented unto without the greatest Inconveniencies imaginable.

And thence followed new *Designs* and *Contrivances* for the Relief of the Queen of *Scots*, *&c.*

E

The *Marriage* of the Duke of *Norfolk* with the Queen of *Scots* was
[3]Ibid.f.118 first propounded [3] by her great Enemy, the Regent *Murray*; and
[4]Ibid.f. 126 127. afterwards carried on by the Earls of [4] *Arundel*, *Northumberland*, *Westmerland*, *Sussex*, *Pembroke* and *Southampton*, with many Barons,
[5]Ibid. f.128 and by the Earl of *Leicester* himself; who, with his *own hand* [5] drew up Articles which he sent to the Queen of *Scots*, in number six; two whereof were, *That she should do nothing which might be prejudicial to the Queen of* England, *or to the Children born of her, in the Succession of the Kingdom of* England. *That she should revoke her Assignment of the* F
Kingdom of England *to the Duke of* Anjou. The occasion of this Arti-
[6]Ibid.f.118 cle was, [6] that *Murray* had reported that the Queen of *Scots* had made over her *Title* to *England* to the Duke of *Anjou*, and that her Conveyance was confirmed at *Rome*: which the Queen utterly denied. And it was afterwards discovered to be an *Invention* of *Murray*'s to alienate Queen *Elizabeths* mind from her.

To

To obviate all theſe *Miſchiefs* and *Deſigns*; The Queen and her private Miniſters, the Earl of *Leiceſter*, Lord *Burleigh* and Sir *Francis Walſingham*, thought fit to improve the *Inſinuation* and *Overture* of a Match [1] made by the Queen Mother of *France*, but not very vigorouſly purſued until the Year 1571. 13 *Eliz.* and in the time of the *Sitting* of the Parliament of that Year, though 'twas not in that Aſſembly or their Journals taken notice of, it being * ſecretly managed by order of the Queen, by her two then great Confidents, the Earl of *Leiceſter*, and the Lord *Burleigh*, by the Mediation of Sir *Francis Walſingham*, then Ambaſſador in *France*. Whether *Leyceſter* meant honeſtly and ſeriouſly in this *Affair*, I cannot determine; * he made great Profeſſions that he did; the then Poſture of *Affairs* being repreſented to him by *Walſingham*, in a Letter dated from *Paris*, *May* 14. 1571. in theſe Words.

[1] Ib. f. 107.

* Compleat Ambaſſador, Queens Letter, f. 66. Burleigh's Letter, f. 69. Queens Letter, f. 83. & Qu. Let. f. 106. *Ib. f. 105, 108. June 7. 1571. Ibid. f. 96.

MY very good Lord, The Proteſtants here do ſo earneſtly deſire this Match, and on the other ſide the Papiſts do ſo earneſtly ſeek to impeach the ſame, as it maketh me the more earneſt in furthering of the ſame. Beſides, when I particularly conſider her Majeſties Eſtate both at home and abroad, ſo far forth as my poor Eye-ſight can diſcern; and how ſhe is beſet with Foreign Peril, the Execution whereof ſtayeth only upon the Event of this Match; I do not ſee how ſhe can ſtand if this Matter break off. No particular Reſpect (as God is my Witneſs) moveth me to write thus earneſtly, but only the Regard I have to God's Glory, and Her Majeſties Safety.

Your Lordſhips to command,

Fr. Walſingham.

How *neceſſary* this Match was at this time, for the *ſafety* of the Queen and Nation, we have the Opinion of this great Stateſman and Miniſter; with whom *Leyceſter* and *Burleigh* concurred in Opinion, as appears by their *ſeveral Letters* relating to theſe *Tranſactions*. And ſince the *French*, in the Sixth Article delivered in by the *French* Ambaſſador the thirteenth of *April*, 1571. propounded the Succeſſion to be ſecured to the Iſſue of this Marriage, according to the *Laws* and *Cuſtoms* of the Realms; to which Queen *Elizabeth*, according to the common Opinion of the Underſtanding Men of thoſe Times, not having Right by *Inheritance* or *Proximity of Blood*, might think by this Act of Parliament (that in effect doth grant the general Surmiſe) to make good her Title, and by this way and means to notifie it to be according to the *Laws* and *Cuſtoms* of the Realm. For the Duke of *Anjou* could not but have notice of the pretended *Defectiveneſs* of her Claim, though not mentioned in the Treaty; and therefore this might haply be done, as much as could be, to meet with, and ſatisfie that Objection, if it ſhould be made, and that this might be a private, though none of the great Conſiderations, of procuring and paſſing this Act. He that will but obſerve theſe Particulars of Hiſtory, and will take the pains to compare them with this Act, may eaſily perceive it was made as a Proviſion againſt ſuch *things*, *pretences*, and *attempts* for the future, during Queen *Elizabeths* Reign, as had then been done, uſed, and practiſed: it being then doubted

whether the *Laws* and *Statutes* of this Realm then in force, were sufficient for the Preservation of the Queens Person.

The Title of the Act is, *An Act whereby certain Offences are made Treason.* And the Bill in the *Commons* * *Journal* was called, *A Bill for Treasons.*

* *Sabbati*, 21 Apr. 1571. fol. 18. b.

The Preamble upon the Parliament-Roll is, Forasmuch as it is of some doubted, whether the Laws and Statutes of this Realm, remaining at this present in force, are vailable and sufficient enough for the Surety and Preservation of the Queens most Royal Person, in whom consisteth all the happiness and Comfort of the whole State and Subjects of the Realm, which thing all dutiful, faithful, and loving Subjects ought and will, with all careful Study and Zeal, consider, foresee, and provide for; By the neglecting and passing over whereof, with winking Eyes, there might happen to grow the Subversion and Ruine of the Quiet and most happy State and present Government of this Realm, which God defend. A B

* Rast. Stat. tit. *Treasons*, n. 27. f. 554. a.

Therefore * it was Enacted, Declared, and Established, That if any Person or Persons whatsoever, within the Realm or without, should compass, imagine, invent, devise, or intend the Death or Destruction, or any Bodily harm, tending to Death, Destruction, Maym, or Wounding of the Person of Queen Elizabeth, or to Deprive or Depose her of or from the Stile, Honour, or Kingly Name, &c. or to Levy War against her Majesty within the Realm or without, or to move or stir any Forreigners or Strangers with Force to Invade this Realm; or if any Person or Persons whatsoever shall maliciously and advisedly declare and publish, That Queen Elizabeth during her Life, is not or ought not to be Queen of England, &c. or, That any other Person or Persons ought of Right to be King or Queen of the said Realm: or, That shall maliciously and advisedly set forth and affirm, That Queen Elizabeth is an Heretick, Schismatick, Tyrant, Infidel, or Usurper: That then all and every such said Offence and Offences shall be taken, deemed, and declared, by the Authority of this Act and Parliament, to be High Treason. C D

Ibid. b.

And be it also Enacted by the Authority aforesaid, That all and every Person and Persons, of what Degree, Condition, Place, Nation, or Estate whatsoever they be, which shall at any time in the Life of Queen Elizabeth, in any wise claim, pretend, utter, declare, affirm or publish themselves, or any of them, or any other than Queen Elizabeth, to have Right or Title to have and enjoy the Crown of England during or in her Life-time, or shall usurp the same Crown or Royal Style, Title, and Dignity, during or in her Life-time; or shall hold and affirm, That she had not Right to hold and enjoy the said Crown, or shall not (after demand) effectually acknowledge her to be in Right, true and lawful Queen: They and every of them so offending, shall be utterly disabled during their Natural Lives only, to have or enjoy the Crown or Realm of England, or the Style, Title, or Dignity thereof, at any time in Succession, Inheritance, or otherwise, after the Decease of the Queen, E F

Queen, as if ſuch Perſons were naturally dead: Any Law, Cuſtom, Pretence, or Matter whatſoever to the contrary notwithſtanding.

And be it further Enacted, That if any Perſon ſhall, during the Queens Majeſties Life, maintain, hold and affirm any Right in Succeſſion, Inheritance, or Poſſibility, in or to the Crown or Realm of England, or the Rights thereof to be in any ſuch Claimer, Pretender, Utterer, Declarer, Affirmer, Uſurper, Publiſher, or Not-acknowledger, ſhall be a High Traytor, and ſuffer and forfeit as in Caſes of High Treaſon. Ibid. f. 354. b.

And for the Confirmation and making good what had in this Law been hitherto Enacted, as much as might be, it was further Enacted, That if any Perſon ſhould in any wiſe hold and affirm, or maintain, That the Common Laws of this Realm, not altered by Parliament, ought not to direct the Right of the Crown of England; or, That our Soveraign Lady Queen Elizabeth, with and by Authority of the Parliament of England, is not able to make Laws and Statutes of ſufficient force and validity to limit and bind the Crown of this Realm, and the Deſcent, Limitation, Inheritance, and Government thereof; or, That this preſent Statute, or any part thereof, or any other Statute to be made by the Authority of the Parliament of England, with the Royal Aſſent of the Queen, for Limitting of the Crown, or any Statute for Recognizing the Right of the ſaid Crown and Realm to be juſtly and lawfully in the moſt Royal Perſon of the Queen, is not, are not, or ſhall not, or ought not to be for ever of good and ſufficient force and validity, to bind, limit, reſtrain, and govern all Perſons, their Rights and Titles, that in any wiſe may or might claim any Intereſt or Poſſibility in or to the Crown of England, in Poſſeſſion, Remainder, Inheritance, Succeſſion, or otherwiſe howſoever: Every ſuch Perſon ſo holding, affirming, or maintaining during the Life of the Queens Majeſty, ſhall be judged a High Traytor, &c. And every Perſon ſo holding, affirming, and maintaining, after the Deceaſe of the Queen, ſhall forfeit all his Goods and Chattels. Ibidem.

This Clauſe was mainly intended againſt the pretended Authority of the Pope, by which he depoſed her.

This Statute was a *peculiar Law* made for the *Preſervation* of Queen *Elizabeths Perſon* and *Title*; and this laſt Enacting Clauſe and Paragraph was made to ſtrengthen and confirm the former part of the Statute, which was a *Proviſion* and *Security* againſt ſuch *Pretences* and *Practices* as were enumerated in the preceeding Hiſtorical Account.

And if we conſider how much (if not altogether) her *Title* to the Crown depended upon *Statute-Law*, and how Queſtionable her *Birth-right* was generally reputed to be, no man can much wonder, if for her *own advantage* and *ſafety*, ſhe attributed more to an Act of Parliament than otherwiſe ſhe would have done. She was neceſſitated to take this courſe, to eſtabliſh her ſelf againſt the *Pretences* of the Queen of *Scots*, when her *Birth-right* could not do it, it being very doubtful whether ſhe was *Legitimate*, conſidering the Proceedings in the Divorce of Queen *Kathetherine*, Marriage of her Mother, and her Mothers

thers *Confession* * to *Archbishop Cranmer*, when the Statute was made for the declaring the Marriage null and void between *Henry* the Eighth and *Anne Bolein*, by which Statute she was also solemnly Bastardized.

* 28 H. 8. c. 7. Pult. Stat.

And although Queen *Elizabeth*, at the *entrance* upon her *Government*, was acknowledged to be * *rightly*, *lineally*, and *lawfully Descended* from the *Blood Royal* of this Realm, which if true, had been a sufficient Title, She being then the *only remaining Issue* of *Henry* the Eighth; yet her right was recognized as *depending* upon the *Laws* and *Statutes* of the Realm, and by express mention of, and *reference* to the *Thirty fifth* of *Henry* the Eighth; by which *Statute* the Crown was settled upon *her*, and the *Heirs of her Body* lawfully begotten; in several places whereof, she is by the King her Father, *implicitly reputed*, and *declared illegitimate*, and the *settlement* in that Act is made to her, *as not being lawfully begotten*, or having right to inherit.

* 1 Eliz. c. 3.

Ibidem.

A

B

In the first of her Reign before cited, when the *Crown* was *declared* to be vested in her, and that *Declaration* and *Recognition*, as also the *Limitation* and *Declaration* of the *Succession* of the Imperial Crown of this Realm mentioned and contained in the Act of 35 *Hen.* 8. were to stand, remain, and be *the Law of this Land for ever*. Which notwithstanding, when *Mary Queen* of *Scots* had *claimed* the Crown by right of *Inheritance*, and had spread abroad that *Title* unto it, and also the *Title* of the *House* of *Suffolk*, and other *Titles* were whispered up and down; the Act of 35 *Hen.* 8. or this Act of *Recognition*, were not thought *sufficient* to *secure* Queen *Elizabeth*. Then was this Act in the Thirteenth of her Reign, made meerly either to *create* or *strengthen* her Title, and not to *Exclude* the Queen of *Scots* from the SUCCESSION, unless she attempted any thing against her, or laid *Claim* to the Crown, which was also in its own nature a securing Clause to Queen *Elizabeth*.

Ibidem.

C

D

But the great *Clause* of *Security* to Queen *Elizabeth* in this Act, was that *Clause* by which it was made Treason for any man to *affirm*, that she by *Authority* of Parliament, *could not make Laws and Statutes to bind the Succession* of the Crown, or that this Act or other *Laws* to be made by the Parliament of *England by her Royal assent*, for *limiting* the *Crown*, and *recognizing* the *Right* to be *lawfully* and *justly* in her *Person*, *is not*, *are not*, *or shall not*, *or ought not to be for ever*, *of good and sufficient force*. This *Clause* was *levelled* against the *Opinion*, That the Queen of *Scots* had the best Title; which began to spread, and gain much credit, as well amongst the *Nobility* as *Commons*: By all which it is manifest, this *whole Act* was but Temporary; and therefore we may note, with *Pulton*, that it *expired* with Queen *Elizabeth*; and it was *no* Act of *Exclusion*, but a *Law* only to secure her Person, and to *make* and *confirm* unto her a *Title*, which without *Statute-Law* was *in it self* at least *doubtful*. And the *new Clause* which was added, That it should be *High Treason*, during her Life, for any Person to *affirm*, she by *Authority* of Parliament had not *Power* to *bind* the *Crown* and *Succession* thereof; or, That the Right of the Crown and Realm was not justly and lawfully in her Royal Person; cannot *affect* the *Title* of a lawful *Successor* by *Inheritance*, nor be brought

E

F

brought or made uſe of as a *Precedent* to *exclude* him from the *Succeſſion.*

But it may be ſaid, There is a great Forfeiture inflicted upon every Perſon holding and affirming, *after her Deceaſe*, That Queen *Elizabeth* and a Parliament *could not limit the Succeſſion*, and *fix the Crown upon her own Head.*

A

This Clauſe could take no effect after her death, and therefore was *added* to preſerve her Memory from being defamed after her Death, or ſlanderouſly charged with the *hainous Crime of Uſurping* the Crown, which muſt have been the *inevitable Conſequence* of affirming ſhe and her Parliament could not limit the Succeſſion.

For ſhe *valued* much her *Credit* and *Reputation*, and would ſeem
B to maintain ſtill, that ſhe *acted* nothing againſt the Queen of *Scots*; and therefore the *Law* is made in *general Words*, againſt *every Perſon or Perſons whatſoever*, of what *Degree*, *Place*, *Nation*, or *Condition* whatſoever, that ſhould *affirm* ſhe was not in *Right* true and lawful Queen, or that ſhould *claim* the Crown, *&c.*

In the *Point* of *Succeſſion* ſhe could never be brought expreſly by Name to *exclude* the Queen of *Scots*, or *name* any other *Succeſſor*, as is
C clear from theſe ſeveral Paſſages in *Camden.*

Dudley, deſirous by all means to oblige and obtain the Favour of the Queen of *Scots*, accuſed the Lord Keeper *Bacon* to the Queen, That he had intermedled againſt the Queen of *Scots* in the matter of Succeſſion; for which he loſt the Queens Favour, and was, with much ado, at laſt reſtored to it again by the Mediation of *Cecil*, * upon which our Author ſays, *Certainly the Queen never heard any thing more unwillingly, than that the Right of Succeſſion ſhould be called in queſtion or diſputed.*
D

Camd. Eliz. f. 73. A. D. 1564.

* Ibidem.

The ſame Year Queen *Elizabeth* hearing of a Match like to be between the Queen of *Scots* and *Henry* Lord *Darly*, to prevent it, advertiſed her, by her Lieger *Randolph*, That that Marriage was generally ſo diſliked by all the *Engliſh*, *that ſhe had Prorogued the Parliament to another time, againſt the minds of her Council, leſt the Eſtates of the Realm being incenſed, ſhould even for this cauſe Enact ſomewhat againſt her Right to the Succeſſion.* Which, that it might not be done afterwards, ſhe recommended *Leyceſter* unto her for a Husband, whom chiefly for that Reaſon ſhe had created Earl.
E

Ibid. fol. 75.

Jus Succeſſionis.

In the Year 1566. a Parliament was called to meet on the Firſt of *November*. They began to *Debate* roundly about the *Succeſſion*; and the Earls of *Pembroke* and *Leyceſter*, and Duke of *Norfolk*, thought *that an Husband was to be impoſed upon the Queen, or a Succeſſor publickly deſigned by Act of Parliament, even againſt her will.* Whereupon they were excluded the Preſence-Chamber, and denied Acceſs to the Queen; *but they ſoon ſubmitted themſelves to her, and obtained Pardon.* Yet the Upper-Houſe did by the Lord Keeper *Bacon*, adviſe, move, and pray her *to Marry*, and to *appoint a Succeſſor*, if ſhe or her Children ſhould die without Iſſue.
F

Ibid. fol. 83.

Ibid. & f. 84.

But

Ibidem. But some in the Lower-House *handled* these things more *tumultuously*. *Bell* and *Monson*, great Lawyers, *Dutton*, *Paul Wentworth*, and others, who *grated* upon the Queens Authority too much, and amongst other things *maintained*, That Kings were *bound* to design a Successor. At last *they offered her far greater Subsidies than they were wont, upon condition that she would design a certain Successor.* She absolutely *refused that extraordinary Offer*, and accepted an ordinary Sum, commending their Affection. A

The last day of the Parliament she made a Speech, and gave the busie Men a smooth Reprehension. * Ibid. f. 89. **I find* (saith she) *that in this Parliament DISSIMULATION hath walked up and down, masked under the Vizor of LIBERTY and SUCCESSION. Some of your Number there are, that thought it LIBERTY to dispute of the SUCCESSION, and that the Establishment of the same is absolutely to be granted or denied. If I had granted it, these Men had had their desire, and had triumphed over me; but if I had denied it, they thought to have moved the Hatred of my People against me, which my greatest Enemies could never yet do: But their Wisdom was unseasonable, and their Counsels overhasty, neither did they foresee the Event: Yet hereby I easily perceived who inclined toward me, and who were averse unto me*, &c. B

* Ibidem. Upon this Speech *Camden* makes this Remark. **Thus a Womans Wisdom suppressed these Commotions, every day so qualified them, shining clearer and clearer, that very few besides such as were seditious and fearful, were troubled about a Successor.* And certainly most men, whatever they pretend, have no more sense of Publick Matters, than what concerns their own Private. C

To these Testimonies of the Queens aversion to pass a Bill of Exclusion of the Queen of *Scots*, may be added a very clear and convincing one out of the *Journal* of the House of Commons, in the Fourteenth of her Reign, after the passing this Act, which is said so much to favor a Bill of Exclusion. *Mr. Treasurer of the Houshold, Sir* Francis Knolles, *from the Queen, advised the House of Commons to go forwards against the Queen of Scots with a second Bill*; * *and that her Majesty minded not by any Implication or drawing of Words, to have the Scotish Queen either inabled or disinabled to or from any manner of Title to the Crown of* England; *and willed, That the Bill be drawn and penned by her Learned Counsel, before the same be treated of in the House; and that in the mean time of bringing in of that Bill, the House enter not into any Speeches or Arguments of that Matter.* D E

* Mercur. 28 Maii, 1572. fol. 53.

* Compleat Ambassador, fol. 219. With the Journal agrees a Passage in the Lord *Burleigh*'s Letter * to Sir *Francis Walsingham* the Queens Ambassador in *France*, *July* 2. 1572. two days after the Parliament was Prorogued.

Now for our Parliament, I cannot write patiently: All that we laboured for, and had with full Consent *brought to fashion, I mean, a* Law *to make the* Scotish Queen unable *and* unworthy *of* Succession *of the Crown, was by her Majesty* neither assented to, nor rejected, but deferred until the Feast of All Saints. *But what all other good and wise Men may think thereof, you may guess. Some here have, it seemeth,* abused *their Favour about her Majesty, to make her self her most Enemy.* F

God

God amend them. I will not write to you who were ſuſpected. *I am* ſorry *for them; and ſo would you alſo, if you thought the* ſuſpicion *to be true.*

Your aſſured Loving Friend,
Will. Burleigh.

This Parliament did not meet again until the *Eighth of February, in the Eighteenth year of the Reign of Queen* Elizabeth, unleſs there be any better Authority than Mr. *Pulton's*, in his Statutes, to make it appear that it did. And although there never was greater *fear* and *danger* of the *Introduction* of *Popery* and *Arbitrary Power*, by reaſon of the Queen of *Scots Religion*, her *Pretences* and *Practices*, and the *expectation* of great *Aſſiſtance* from abroad and at home, than at this time, yet we find not thoſe that were *ſuſpected* to have adviſed the Queen in this great Affair, to have been *branded* by Publick Vote, as *Betrayers* of the Queen, the *Proteſtant Religion*, and the *Kingdom* of *England*, *Promoters* of the *Scottiſh Intereſt*, and *Penſioners* to *Scotland*.

This is a faithful Relation of the *Succeſſion*. Whether I have fairly or partially *cited* the *Records* and *Hiſtories* I have uſed, any Man (if he pleaſe) may inform himſelf. Whether it be expedient, juſt or lawful to go about to interrupt the *lawful Succeſſion* by *Birth-right*, or to endeavour to *break*, or *vacate* the *Laws* and *Cuſtoms* of the Nation, by which it is *Eſtabliſhed* and *Governed*, without any *Motion*, *Sollicitation*, *Procurement*, or *Intention* of the preſent *true* and *lawful King* by *Birth-right*, for and upon the *Suggeſtions* in the Bill *mentioned*, I leave it to the Conſideration of all juſt and ſober Men.

Which at moſt were but *Jealouſies* and *Preſumptions*, and yet were the *Foundation* or *Ground* (if it could have been done) to have made the *Duke* for ever *uncapable* to *inherit*, *poſſeſs*, or *enjoy* the *Imperial Crown* of *England*, *&c.* and if at any time he had *claimed* or *indeavoured* to *poſſeſs* himſelf of it, he ſhould be *adjudged Guilty* of *High Treaſon*; and *all* ſuch as ſhould any way *maintain* (his true, juſt, and moſt lawful Title) or *aſſiſt* him in *obtaining* thoſe *Rights* which were due to him by the *Laws* of *God* and *Man*, were to *incur* the ſame *Guilt* and *Puniſhment*. And were alſo the *Motives* for his *perpetual Baniſhment*, after the Fifth of *November*, 1680. under the *Pains*, *Penalties*, and *Forfeitures*, as in *Caſe* of High Treaſon, if he ſhould return; and the like to any *Perſons* whatſoever, that ſhould be *aiding* or *aſſiſting* unto his Return.

And then it was to be Enacted and Declared, that it ſhould and might be *lawful*, To and for any *Magiſtrates*, *Officers*, and other *Subjects* whatſoever, within the Kingdoms of *England* and *Ireland*, and the Dominions and Territories thereto belonging, (a ſtrange, general, and legal *Commiſſion* for Rebellion) and that they ſhould be injoyned, and required to apprehend and ſecure **James** *Duke* of *York*, and every other *Perſon* offending in any of the Premiſes, which were many (as appears by the *Bill* it ſelf) and with him or them, in *Caſe* of *Reſiſtance*, to *fight*; and him or them by *force* to ſubdue; for all which *actings*, and for ſo *doing*, they were and ſhould be by virtue of that *Act*, ſaved harmleſs and indemnified.

This was a *Contrivance* and *Deſign*, to ruine the *Government* and deſtroy it, which any man, that had duely obſerved the Practices of theſe ſort of men, about forty years before, might have ſeen through, with a very ſmall light, though the *Managers* of it thought it ſo

dark and *Myſterious*, as that it was totally *inviſible*. The *Net* was ſpread, and the *Snares* laid to catch all *Loyal* Subjects, and ſuch as thought themſelves bound in Honor and Conſcience to preſerve the *Laws* and *Government* of the Nation.

After the time limited for the Duke's Baniſhment, had been over, and he gone, it was but *accuſing* as many as the *Contrivers* of the Bill pleaſed, for holding *Correſpondency* with the Duke, with *intention* to *bring* him in again from his Baniſhment, who either by their quiet *Submiſſion* to Rapine, or Plundering, and Impriſonment, were to be ruined and put to death at their pleaſure; or in caſe of *Reſiſtance*, to be fought withall, and ſubdued, and if they were, then to *undergo* the ſame Deſtruction. For here was an *unheard* of *unlimited Power* given to *Magiſtrates* and *Officers*, (who if this Act had once paſſed, they would have taken care, ſhould have been for their purpoſe) and to the People to get together, and with *Force* and *Arms*, to have executed whatſoever *Seditious* men had infuſed into them; who would have ſoon inſtructed them in the Principles and Doctrine of *Calvin*, the Presbyterians and Jeſuits, of *Depoſing* and *Murthering* of Kings and Princes; which *Doctrine*, when the People had put in Practice, and gone on *ſtep* by *ſtep*, until they had *arrived* at a *perfect*, *cruel*, and *mercileſs* Rebellion, and deſtroyed the eſtabliſhed Government (though many might ſee the *Cheat*, and by what *Arts* they were drawn in) yet then they muſt (for their own Security) have *thrown* themſelves upon their *Directors* and *Managers*, and muſt have *ſubmitted* to ſuch an *Arbitrary* Power, and ſuch an *Ariſtocratical* or *Democratical Tyranny*, or one *compounded* of both *kinds*, as they ſhould have thought fit to have inſtituted. All which I think to have been made moſt manifeſt, by the ſince Treaſonable Actions of many of thoſe which *furiouſly* drove on the *Paſſing* of the Bill.

And for theſe very Reaſons it was, that in the *Beginning* of this Treatiſe, I noted the Opinions of the *Presbyterians* about *Monarchs*, who if they conform not to their *Humours* and *Monarchies*, which if not *modelled* according to their *Fancy* and *Deſign*, they traduce and bring the *Subjects* into an evil opinion of them, and then ſet their *Engines* to work; The *inferior Magiſtrates* and *Officers*, the People or *Multitude*, or their *Repreſentatives* in Publick Aſſemblies, to *batter* down, and *overturn* them; under the pretence of *ſetting* up and *defending* pure Religion, according to the Scriptures, and Preſervation of Liberty and Property.

They that think they may lawfully riſe up againſt the chief *Magiſtrates*, and *reform* what they *judge*, or will have to be amiſs in the Government without his Conſent, when they have Power to do it, and if need be, depoſe him; will alſo think, when they have Power, they may *alter* the *Succeſſion* when, and as often as the *humour* of the *Rabble* moves that way, and *Seditious* men ſhall inſinuate and perſwade it, as *neceſſary*, and diſpoſe of the Crown to whom they think fit, if they ſhall *pleaſe* to continue the Monarchy; That they may do the *latter*, follows directly from their doing the former, which is the *Foundation* of that *Superſtructure*. Theſe *Dangerous*, *Seditious*, and *Treaſonable* Opinions and Poſitions of Presbyterians, Jeſuits, *&c.* which are ſcarce poſſible to be practiſed, without *Bloodſhed* and horrid *Confuſion* in any *Hereditary*, or well *Eſtabliſhed Monarchy*, are taken up and purſued, by *Atheiſts*, men of *looſe*, or no Principles or Religion; *diſcontented*, *malitious*, *proud*, *haughty* and *ambitious* ſelf-conceited

conceited men, and such of good *Natural parts*, as have broken their Fortunes, who set up for Politicians, and make it their Business to *infuse* these Notions into the Heads of the Vulgar, and propagate them upon every opportunity, and for that end wandring from place to place, to find out People, and an occasion for their purpose, designing to satisfie their particular *Appetites*, their *mutinous* and *wicked* Humours, or repair or better their ruin'd Fortunes, by *Blood* and *Violence*; blaming *all men* that are not of their Temper; and *things* too, unless according to their *Conceptions*, which are most to be blamed.

But after all, there remains a *mighty*, and as those think, that would have it so, an *unanswerable Objection*, to be satisfied, and is to be found in Mr. **Hunts** *Postscript*, p. 31. as here it followeth. *Those that are truly Loyal to our present Soveraign, have reason to recognize with high satisfaction, that such a Power of altering and limiting the Descent of the Crown, is duely lodged in the King and States of the Realm: For under the Authority of an Act of Parliament of the Kingdom of* Scotland, *we derive our selves to the Happiness of his Government, and he his Title to the Crown of* Scotland, *which drew to him the Imperial Crown of* England. *For* Robert Stewart, *first King of* Scotland *of that Family, lived in Concubinate with* **Elizabeth Mure**, *and by her had three* **Sons, John, Robert,** *and* **Alexander**; *afterwards he married* **Eufame** *Daughter to the Earl of* **Rosse**, *and after was Crowned* **King** *of* **Scotland**: *He had by her* **Walter** *Earl of* **Athol**, *and* **David** *Earl of* **Strabern**: *When* **Eufame** *his Wife died; he married* **Elizabeth Mure.**

After that, by one Act *of* Parliament, *he made his Natural Children first Noble; that is to say,* **John** *Earl of* **Carricke, Robert** *Earl of* **Menteith,** *and* **Alexander** *Earl of* **Buckquhane** *and shortly after by another Parlement, he limited the Crown in Tayl successively, to* **John, Robert,** *and* **Alexander,** *the Children of* **Elizabeth Mure,** *in Concubinate, and after to the Children of* **Eufame Rosse,** *his legitimate Children, who are to this day in their Issue by this Limitation, by Authority of an Act of Parlement in* Scotland, *barr'd from the Crown, and we hope ever will be, by the continuance of the Line of our most Gracious King.* P. 31.

Note, That though a subsequent Marriage by the Civil Law, which is the Law of Scotland, *in such Cases doth Legitimate the Children of a Concubine, born before Marriage; yet it is with this Exception, That they shall not be legitimated to the prejudice of Children born afterward in Marriage, and before the Marriage of the Concubine: Besides the Reason of the Civil Law in legitimating the Children upon a subsequent Marriage is this,* viz. *a Presumption that they were begotten* affectu Maritali, *which Presumption fails, where the Man proceeds to marry another Woman, and abandons or neglects his Concubine.* Ibidem.

This is the Argument, and this Mr. **Hunts** History of Matter of Fact and Law, That **Elizabeth Mure** was *Concubine* to **Robert** the Second **King** of *Scotland*, That she had three Sons by him, That he Married **Eufeme**, and had by her two Sons, That after her Death he Married *Elizabeth Mure*, and that **John** the Eldest Son by her was **King**, and reigned by the name of **Robert** the Third, and his **Issue** after him, is agreed.

But whether he was, or could be sufficiently **legitimated** by this *Marriage*, and qualified for the *Succession*, or whether he did really *Succeed* by virtue of the *Marriage*, or by *Act* of *Parlement*, is the Question.

Two *Scotch Historians* I have seen, who do give a short Account of this Affair. *Buchanon* in the Ninth Book of his *History* of *Scotland*, Printed at *Utrecht* 1668. P. 307. in the Reign of this King, says, *Rebus primo Biennio feliciter succedentibus, Tertio ab initio Regno Anno, Eufemia Regina* Hugonis *Comitis* **Rossie** *filia, moritur. Ex ea Rex ternos liberos genuerat;* **Walterum** *Jerniæ, &* **Davidem Atholiæ** *Comites, &* **Eufemiam** Jacobo **Douglassio** *nuptam.* Robertus *non tam impatientia cœlibatus, quam Amore filiorum, ex* **Elizabetha Moza** *prius genitorum, ipsam uxorem duxit; Hanc enim eleganti forma* Adami Mori *illustris equitis filiam, adhuc adolescens vehementer amarat; ex eaque tres filios, ac duas filias susceperat, eamque* * **Gifardo** *viro Nobili in* **Lothiana** *curaverat Collocandam; verum sub idem fere Tempus,* **Eufemia** *Regina, &* **Gifardo, Elizabethe** *Marito, defunctis, Rex sive consuetudine veteri* **Moze** *inductus, sive quod (à multis traditur) ut filios quos ex ea genuerat, Legitimos faceret, matrem eorum sibi Matrimonio junxit; filios statim Divitiis & Honoribus auxit,* Johannes *Natu maximus* **Carrtae,** * **Robertus, Taichie, Alexander Buchanie** *Comites sunt facti, nec hac munificentia contentus, Comitiis ad Sconam indictis, obtinuit ut præteritis* Eufemiæ *liberis, in Rege creando gradus ætatis observarentur.* That is, In the first two years of King *Robert* the Second, things succeeded happily, in the Third **Eufeme** the Queen, Daughter of *Hugh* Earl of *Rosse* died, by her the King had three Children, **Walter** Earl of *Jern*, **David** Earl of *Athol*, and **Eufeme** married to *James Douglass.* **Robert** not so much for the impatience of a single Life, as for the love of the *Children* he had begotten of **Elizabeth Moze** married her, for when he was a young man, he had vehemently loved this very Beautiful Woman, the Daughter of *Adam More* an Illustrious Knight, by her he had three Sons and two Daughters, and had married her to one **Gifard** a Noble-man in **Lothian**, but about the same time, **Eufeme** the Queen, and **Gifard** the Husband of **Elizabeth Moze** died. The King, either induced by the old Familiarity that had been between them, or which is reported by many, That he might make *Legitimate* the Children he had by her, married her, and bestowed upon them *Honor* and *Riches*, **John** the Eldest, was made Earl of **Carrict**, **Robert** of *Mentieth*, and **Alexander** of *Buchan.* Nor content with this Munificence, he called a *Parlement* at *Scone*, and obtained, That the Children of **Eufeme** being postponed, in creating a King, *Priority* of *Age* should be observed.

The other Account of this Affair, *Hector Boethius* gives us, in his History of the *Scottish* Nation, Book the 16th, f. 328. a. n. 10. and relates it thus, * *Sed priusquam* **Eufemiam Robertus** *duxisset uxorem, consuetudinem cum* **Elizabetha** *filia* **Adæ Muir** *Equitis Aurati habuerat, quæ tres illi filios peperit,* **Johannem** *qui Roberto patri in Regnum postea successit,* **Robertum** *&* **Alexandrum,** *& duas filias.* * *Tertio Regni anno* **Roberti, Eufemia** *uxor ejus fato functa est. Tum* Robertus Elizabetham *uxorem duxit, ut quos* * *ex ea liberos susceperat (impendio enim eos amabat) legitimos redderet. Eodem Anno filios Agris donavit,* **Johannem** *Comitem* Caricæ *effecit, ac* Scotiæ **Senescallum,** **Robertum** *Comitem Fif &* **Menteth, Alexandrum** *dominum* Badzenothæ, **Davidem** *ex* **Eufemia** *primogenitum Comitem Ernevallis,* i. e. **Strathern, Walterum** *Comitem* **Atholiæ;** * *Cæterum rationem Successionis hoc modo instituit, nempe ut* **Johannes** *primus omnium succederet, quo defuncto sine prole mascula,* **Robertus,** *qui si sine filio quoque decederet,* **Alexander** *in locum ejus subiret: Quod si eadem ille fortuna nullo*

* This is not to be found in *Hector Boe*, or *Boethius.*

* The Titles of these are mistaken, they are otherwise in the Act of Parlement.

* This Relation agrees not with the Act of Parlement and Charters cited by Sir *George Mackerzie.*
* P. 28 a. n. 40.
* Ibid. Histor. Hect. Boeth. f. 328 b. lin. 2. &c.

* This Declaration of the succession agrees with the Act of Parlement.

nullo relicto filio, ex hac vita excederet, tum David; *si vero, & illum idem casus sequeretur, tum ad* Walterum *Regni perveniret Successio; verum ut sunt res Mortalium caducæ, si ex omnibus illis Masculâ nulla relinqueretur soboles, proximus è sanguine Regio quisquis ille foret, in Rem* Scoticam *succederet.*

Actaque hæc sunt in Publico Procerum *Regni* Consilio *celebrato* Scone; *Juratumque ab omnibus est eam Constitutionem perpetuo se servaturos, tutaturosque.*

In *English* thus, Before Robert married Eufeme, *he had familiarity, and accompanied with* Elizabeth the Daughter of Adam Muir Knight, by whom he had three Sons, John which succeeded his Father Robert in the Kingdom, Robert and Alexander, and two Daughters. In the third year of the Reign of Robert, *Eufeme* his Wife died. Then he married Elizabeth, that he might *Legitimate* the Children he had by her, for he loved them beyond measure. The same year he gave his Sons Estates, he made John Earl of Carict, and Steward or *Seneschal* of *Scotland*, Robert he made Earl of Fife and Menteth, Alexander Lord of *Badzenoth*, David his eldest Son by Eufeme, he made Earl of *Strathern*, and Walter Earl of *Athol*: But he ordained the *Succession* after this manner. That John should first succeed, and after his Death, without Issue Male, Robert, and after him, if he left not a Son, Alexander, and if he happened to dye without Issue Male, then David, and if his Case should be the same, then Walter; but as it may happen, if none of them have Issue Male, the next of the Royal Blood, who ever he be, shall succeed in the Kingdom of *Scotland.*

These things were done in a Publick Council of the Nobility or Great Men of the Kingdom, celebrated at *Scone*; and they all swear perpetually to observe and defend this Constitution. This King Robert began his Reign *Anno Domini* 1371. This Council was holden at *Scone* in the third year of his Reign, which was *Anno Domini* 1373. or 1374.

We see in both these Historians, that the *Succession* was grounded upon *Legitimation*, and that upon *Marriage*, according to the *Law* and *Constitution* of *Scotland*, which Mr. *Hunt* says, is the Civil Law. So that the *Succession* was not gained or established by Act of Parlement, if any such were, but by Law, and the Act of Parlement was grounded upon that Law, and was only a Confirmation of it. But says Mr. *Hunt*, this could not be in this case, for the Foundation of Legitimation by the Civil Law, which was, Affectus Maritalis, was here destroyed, by King Roberts Marriage with Eufeme, for where Children have been legitimated by subsequent Marriage, it was presumed they were begotten Affectu Maritali, and that was to continue without Interruption, until the time of Marriage. This is the strength of Mr. Hunts Argument; but the *Law* was otherwise, for by that it was only required, that they were both *single Persons*, and *Chast*, that is, that neither the *Man* kept or enjoyed any *other Woman*, nor the *Woman* enjoyed or kept *company* or lived with any *other Man*, during their Concubinate. The Issue or Children begotten between such Persons, was accounted, and had the name of *natural Issue*, or Children, and were only *capable* of being *Legitimated* by the Civil or Canon Law, and these were Conditions, upon which *Legitimation* by subsequent Marriage, and *Right* of *Inheritance* was grounded, all other *Children* begotten by *married* men, upon *single Women*, or by *men* that *kept*, or had

See *Forsterus, de Success. Hotom. de Concubin. Tractat.* and almost all Civilians.

had *many Concubines*, or upon *Women* that *accompanied* with *more Men* than one, were esteemed spurious, and incapable of Legitimation by Marriage. But the former might, though there were just Children after begotten upon another Woman in lawful Marriage: The Case is in **Valentin Forsterus** *de Successionibus*, *l.* vi. *cap.* 23. Thus put. A Man hath a * Concubine, and Children by her, he Marries another Woman, and hath Children by her, the Wife dies, and he Marries the Concubine: The better Opinion in the Civil or Imperial Law is, That the Marriage with the Concubine, Legitimates her Children, notwithstanding the former or intermediate Marriage, and that they shall succeed in, and inherit the Father's Estate; And although the **Affectus Maritalis**, which the Civil Law presumes to be between the Man and his Concubine, was for a time **diverted** by an intermediate Marriage; yet that being dissolved, or the Wife being dead, the same *affection* may be *redintegrated* and *renewed* with the same Concubine; which by the Imperial or Civil Law, was sufficient to warrant the Legitimation of the Concubines Children upon his Marriage with her, *Ibid. c.*23. *n.*17. The same Opinion is in the same Case, after a full Discussion of it, to be found in *Tractat. Tractatuum. Tom.*8. *Part* 2. *f.*78. *n.*43,44, *&c. De Legitimatione.*

* i. e. *Mulier, inupta libera, sola, & casta.*

If the Law at this time in *Scotland*, had been the same with the Law of *England*, Mr. *Hunt*'s Argument might have been somewhat, though not much to the purpose, for the whole *Contrivance* and *Management* of this Affair, and the Act of Parlement was procured by the Kings Sollicitation: When as this **Bill** concerning the Duke was contrived, and carried on by a desperate Faction in the House of Commons, which mightily alters the Case, and so doth the difference between the ancient Laws of *England*, and *Scotland*; for by the Evidence of both these Historians, as well as Mr. **Hunts** Confession, Children begotten before Marriage, were Legitimated by Marriage, and made capable of inheriting, by the ancient Law of *Scotland*; but in *England* it was not so, for **Glanvill**, the antientest *English* Lawyer Extant, * says, That although according to the Canons and *Roman* Laws, a Son born before Marriage, might inherit, yet according to the Law and Custom of *England* he could not, nor by right so much as demand his Fathers Inheritance; and this opinion of his is confirmed and declared to be Law by *Act* of *Parlement*, in the Twentieth of *Henry* the Third, Stat. of *Merton*, Cap. 9. *To the King's Writ of* **Bastardy**, *whether one being born before Matrimony, may inherit in like manner, as he that is born after Matrimony*: *All the* **Bishops** *answered, That they would not nor could not answer to it, because it was directly against the common order of the Church. And all the* **Bishops** *instanted the* **Lords**, *that they would consent, that all such as were born afore Matrimony, should be Legitimate, as well as they that be born within Matrimony, as to the Succession of Inheritance, for so much as the Church accepteth such for Legitimate*; *And all the* **Earls** *and* **Barons**, *with one voice, answered, That they would not* **change** *the Laws of the Realm, which hitherto had been used and approved.*

* Lib. 7. c. 15.

Buchanan had his Relation of this Transaction from *Hector Boethius*, but reports it not fairly after him, for he bends and warps it toward his own malitious opinion, as much as he can, That *Scotland* was an *Elective* Monarchy, in his Tract *de Jure Regni apud Scotos*, and from *Buchanan* or from them both, Mr. *Hunt*, I presume, had his History and Argument, and bends it, as *Buchanan* did before,

before, the Relation of *Boethius*, and fits it to patronize his opinion.

This was the Anſwer to Mr. *Hunt*'s Argument, ſuppoſing the Relations of matter of fact by *Hector Boethius* and *Buchanan* to have been true. But ſince the publiſhing of * *Jus Regium* by Sir *George Mackenſie*, the Kings *Learned* and *Worthy* Advocate in *Scotland*, and ſince by the means of the Right Honorable the Earl of *Clarendon* I have had the peruſal of a Copy of this very **Act of Parlement** tranſmitted to him, from Sir *George*, I find their *Relations* to be *falſe*; For according to the then Law, **Elizabeth Muir** was **Robert** the Second his *Firſt* and *lawful* Wife, and that his Iſſue by her were lawful Iſſue, and that ſhe was *Dead* when he married **Eufame** the Daughter of the Earl of **Roſſe**, who was his ſecond Wife, as is clear from the Diſcourſe in the *Jus Regium*, and *right* of *Succeſſion* before cited, as it here immediately follows, taken out of that Treatiſe. And by the Act it ſelf Printed in the *Appendix*, Record 18. it is evident that neither *Hector Boethius*, *Buchanan*, nor Mr. *Hunt* ever ſaw it.

*P. 194, 195, &c.

The Diſcourſe of the Learned Advocate upon the Act of Parliament; The ſubſtance whereof in Engliſh is this.

P. 194, 195, 196, 197, 198, 199, 200, 201.

THat a Parliament being called at *Scoon* the 4th of *April*, *Anno* 1373. and third year of the Reign of King *Robert* the Second, on purpoſe to *ſecure* the *Succeſſion*, and to prevent all Diſorders that might afterwards ariſe in any part of the Kingdom about *Titles* to the Crown; It was Enacted by the ſaid King *Robert* the Second, with the *Advice* and *Conſent* of the whole *Three Eſtates*, That the Sons then born to the King by his *firſt* and *ſecond* Wives, and their Heirs ſhould in order ſucceed to the King in manner after ſpecified: That is to ſay, that his Eldeſt Son by the firſt Marriage *John* Earl of *Carrick* ſhould immediately ſucceed, as had been already declared in the preceding Parliament, and after him his Heirs; And in caſe he died without Iſſue, that his Brother, *Robert* Earl of *Monteith* the Kings *Second* Son of that *Marriage* ſhould ſucceed, and his Heirs: which failing, that *Alexander*, Earl of *Badenoch*, the Kings *Third* Son of that Bed, and his Heirs, ſhould Inherit the Crown; And in caſe that failed, that *David* Earl of *Strathern*, the Kings *Fourth* Son by his *Second* Wife, and his Heirs ſhould ſucceed: And that failing, that *Walter* the King's *Fifth* Son, by the ſaid *Second* Wife and his Heirs, ſhould Inherit the Crown. And if it ſhould happen that the ſaid *Five* Sons and their Iſſue ſhould fail, that then the *next* in *Blood* of the Royal Line ſhould ſucceed. Which Act all the *Three Eſtates* did for themſelves and their Heirs for ever, ſolemnly *Swear* to obſerve, as is more at large to be ſeen in the Original it ſelf, in the *Appendix* Record 18.

And if the pretended Defect be true, it was a very palpable and a very undeniable one, and could not but have been unanſwerably known to the whole Nation. And how can we imagine that the whole *Parliament* would have unanimouſly drawn upon themſelves ſo dreadful a *Perjury*, by Excluding the Lawful Heir, againſt their National Oath in the Reign of King *Kenneth* the Third, whereby they ſwore to own always the immediate Heir, or that they would have

have entailed upon themselves a Civil War, by preferring even a questionable Heir, after the Miseries which they had lately then felt, in the Competition betwixt the *Bruce* and the *Baliol*, amongst which *Seals* the *Seal* of *James* Earl of *Dowglas* is one, and how ridiculous is it to think, that he would *sit* and *declare* a *Bastard* preferable to the *Brother* of his own *Lady*, and to his own *Lady* who would have *succeeded*, if her *Brothers* had dyed without Succession? Which Act of *Parliament* does also clearly prove, that *Buchanan* did not at all understand matters of Fact in this part of the History; for he asserts that after the death of *Euphan Ross*, the King married *Elizabeth Muir*, and did by Act of *Parliament* obtain the Crown to be setled upon *Robert* the *Third*, Son to the said *Elizabeth Muir*, upon whom he also bestowed the *Title* of *Carrick*; All which is most false, for this Act of Parliament is dated in *Anno* * 1371. and King *Robert* the Second succeeded to the Crown that year, nor did *Euphan Ross* die till the third year after he succeeded to the Crown, and so not till the year 1374. and yet in *Anno* 1371. this Act is past, designing him Heir to the Crown, and Earl of *Carrick*, and consequently he was so designed before the death of *Euphan Ross*. A B

* He must mean the first Act by which *John* was declared Successor to the Crown, or the Transcriber hath dated this Act false.

I have seen a *Charter* granted by King *Robert* the Second, when he was only Steward of *Scotland*, in *Anno* 1365. and so long before he was King. In which *Charter* likewise, *John*, thereafter King, by the name of *Robert* the Third is a conjunct Disponer with him, under the expres designation of the eldest Son and Heir. *Robertus Senescallus Scotiæ, Comes de Strathern, & Joannes Senescallus primogenitus & Hæres ipsius Dominus Baroniæ de Kyle*, &c. which *Charter* confirms to the Abbacy of *Pasley* several Lands disponed to them by *Reginaldus More*, Father to Sir *William More* of *Abercorn*. And I find that *David* Duke of *Rothsay*, was always in the *Charters* granted by his Father King *Robert* the *First* called *Primogenitus*, and he was no *Bastard*, nor can this *designation* be given to a *Bastard*, as is clear by *Covaruvias de Matrim.* Part 2. Chap. 8. §. 2. Num. 4. But how can it be imagined that the Monks of *Pasley* would have taken a Right from a Person as Heir to the Crown, who was not; for this would have infer'd Treason against them; beside the annulling their Right? or who could understand better the *lawfulness* of a *Marriage* than a *body* of *Church-men* living in the time, and very near to the Residence of the married Persons, and in whose *Conventual Church* the said King *Robert* and *Elizabeth Muir* lye *buried* together? C D

Item, I have seen in the Registers another *Charter* granted by King *Robert* the Second, in the first year of his Reign, with the consent of *John* Earl of *Carrick*, *Primogenitus & Hæres*, Allano *de* Lavidia *terrarum de Whitflet*; and another granted by the said King, *June* 1. *anno primo Regni*, confirming to *Paul Metire* a *Charter* granted by the Earl of *Ross* Father to *Euphan*, wherein the said *John* Primogenitus *&* Heres is a Witness. E

And to shew that the said *Euphan Ross* was then *living* when he was so design'd *Heir*, there is a *Charter* to her by the King, upon the very *same* day of the *Lands* of *Lochleaven*. As also there is a *Charter* granted by King *Robert* the Second, the *First year* of his Reign, to *Alexander* his Son, and another to *John Kennedy* of the *Barony* of *Dalrymole*, in *both which* the said *John* Earl of *Carrick* is called Primogenitus, and is witness with the Earl of *Dowglas*; so that he has been designed eldest Son and *Heir openly*, *uncontrovertedly*, and in all Papers, and with the consent of the *Second* Wife, and her Relations. F

In

In the *Parliament* 1372. the said *John* Earl of *Carrick*, is design'd to be *Lieutenant* of the Kingdom, and *all the Estates* of Parliament Swear to *own* him in his Goverment, and which *Statute* is Printed amongst the * *Statutes* of King *Robert* the *Second*, Father to the said *John*, and which must be *during* the *Marriage* with *Euphan Ross*, for *she* lived *three years* after her *Husband* was King, and he *Succeeded* to the *Crown* Anno. 1371. And this also confutes *Buchanan*, who asserts, that he was *Created* Earl of *Carrick* after the death of *Euphan Ross*, and it is against all *sense* and *reason* to think that he could have been *acknowledged* during her life, if he had not been the *true apparent Heir* of the *Crown*, and lawful Son.

* C. 17. *Sect.* 2, 3, 4.

I have also seen in * *Fordon*'s History, *lib.* 14. *page.* 73. a *Charter* granted by King *David* to the *Bishops*, with the consent of *Robert* his Nephew, and his Sons giving *power* to the *Bishops* to *dispose* in *Testament* upon their own Moveables, which before that time did by a *corrupt* Custom fall to the King, in which *Charter* the Witnesses are, *Robertus Senescallus Comes de Strathern, Nepos noster* Joannes *Senescallus Comes de Carrick, filius suus* primogenitus *& Hæres, Thomas Comes de Mar, Georgius de Dunbar, Comes de March, & Gulielmus Comes de Dowglas*; So that here is not only the *attestation* of the Father before he was King, naming *John* Earl of *Carrick*, thereafter King *Robert* the second his *Eldest* Son and *Heir*, but the attestation of the Grand-Uncle King *David*, who could be no wayes *byassed* in the affair; And here he is ranked before the *three* eldest Earls in the Nation, who were then the *three* first Subjects therein; And it is against all sense, to think that the *whole Bishops* would have sought the *consent* of the said *John* as apparent *Heir* of the Crown, if he had not been *apparent Heir*. I find also that *Fordon* calls him when he is Crowned King, *Primogenitus* Roberti Secundi; Nor was there the least *opposition* made to his Coronation, nor to the *Coronation* of *Annabella Drummond* his Queen, (a *Daughter* of the House of *Stob-hall*, now *Pearth*) though both the Sons of the *second Marriage* were then alive. I find also, that *Boetius* himself acknowledges that the *Earl* of *Marches* Son *George*, being pursued for having Married *clandestinely* one of the *Daughters* of *Elizabeth Muir*, his *defence* was that he *Married* her when she was the *Daughter* of a *private* Subject, and before King *Robert* was King, whereas if she had been only a *Bastard* Daughter, it could have been *no Crime* to have *Married* her.

* That History I suppose with the additions and interpolations of Maccullon.

I shall to this only add what I saw in *Fordons Scotichronicon* in the Hands of the Learned Dr. *Gale* Master of St. *Paul*'s Schole, *London*, a Transcript whereof he at my Request made me.

Robertus Rex *quando fuit* Comes *de* Carrik *duxit in Uxorem Isabellam Sororem Gartnay Comitis de Mar, De qua genuit unicam filiam nomine Marjoriæ, quæ nupsit Waltero Seuer Scoto, de qua Idem Walterus genuit unicam filium nomine Robertum Seuer postea Regem. Iste Robertus* Copulavit *sibi* de facto *unam de filiabus Adæ More Militis, de qua genuit filios & filias Extra Matrimonium, Quam postea impetrata Dispensatione sedis Apostolicæ, & optenta, Desponsavit Canonicè & forma Ecclesiæ, Anno Domni*: M CCC XLIX.

Robert the first.

This Scotichronicon, this very Book in all probality was the Book of *Hector Boethius*, for in the Bottom of the first leaf of this *Manuscript* are written these words, in an ancient Hand Different from the Manuscript it self. *Collegii Abud. Ex Dono Magistri* Hectoris Bois *primi primarii Ejusdem*; and in the same hand there are many Marginal Notes throughout the Book. This agrees not with what *Hector Boethius* relates in his *History*, nor doth his *report* agree with the Act of *Parlement*; and therefore Sir *John* in his Genealogy of the French Kings and all that have followed him have been deceived. And *Buchanan* hath superadded a *Malitious Fable* to *Hectors* Relation, which he *forged*, or never *minded* this *Fordon* that was his own Book, nor most certainly had never taken notice of the Act of Parliament.

A Parallel or Compariſon between ſome Citations in the Author of the *Brief Hiſtory of Succeſſion, &c.* And the Words of the Authors themſelves.

A

Author of the Brief Hiſt. fol. 1. in the Margin.

EDwardum Elegerunt, Electum conſecraverunt, & in Regem unxerunt. Sim. Dunelm. An. 975. f. 160.

B

Sim. Dunelm. Anno 975. col. 160. n. 40.

EDwardum, UT PATER SUUS PRÆCEPERAT, *Elegerunt, Electum conſecraverunt, & in Regem unxerunt.*

Fol. 3. in the Margin.

Hic Robertus *ſemper contrarius & adeo innaturalis extiterat Baronibus Regni* Angliæ *quod plenario conſenſu & Conſilio totius Communitatis Regni ipſum refutaverunt & pro Rege omnino recuſaverunt &* Henricum *fratrem in Regem erexerunt.* Hen. *de* Knighton, c. 8. 2374.

Hen. de Knighton, col. 2374. c. 8. c. 10.

Iſte Robertus *ſemper contrarius & adeo innaturalis extiterat Baronibus Regni* Angliæ *quod plenario Conſenſu & Conſilio totius Communitatis Regni,* IMPOSUERUNT EI ILLEGITIMITATEM QUOD NON FUERAT PROCREATUS DE LEGITIMO THORO *WILLIELMI* CONQUESTORIS, UNDE UNANIMI ASSENSU SUO, *ipſum refutaverunt & pro Rege omnino recuſaverunt &* Henricum *fratrem ejus in Regem erexerunt.*

C

D

Fol. 4. In the Notes in the middle of the Folio.

In Conventu Epiſcoporum, & aliorum de Regno optimatum, Mat. Weſtm. f. 246. *an.* 1153.

Mat. Weſtm. f. 246. *an.* 1153. n. 10.

Rex *Stephanus* omni hærede viduatus præter ſolummodo *Henricum* Ducem recognovit, *in convehtu Epiſcoporum & aliorum de Regno optimatum.* Quod Dux *Henricus* jus hæreditarium in Regnum *Angliæ* habebat, & Dux benigne conceſſit ut Rex *Stephanus* tota vita ſua ſuum Regnum pacifice poſſideret.

E

F

Fol. 4. In the Margin.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam *totius* Angliæ *Epiſcopi, Abbates, Comites, Barones, Vice-Comites, Præpoſiti, Aldermanni cum Fide-Juſſoribus,*

Chronica Gervaſii, col. 1412. lin. 4.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam *totius* Angliæ *Epiſcopi, Abbates, Comites, Barones, Vice-Comites, Præpoſiti, Aldermanni, cum Fide-juſſoribus,*

bus, Gervas, Hen. 2. fol. 1412. And, fol. 4. in the Body of his History, says, *this was a Parliament in which* Henry *the Second procured his Son* Henry *to be declared King, together with himself, by their consent.*

bus suis timentes valdè omnes. Quisque juxta conscientiam suam metuebat, nesciebant enim, Quid Rex statuere decrevisset ipsa die Henricum *filium suum qui eadem septimana de* Normannia *venerat militem fecit, statimque eum, stupentibus, cunctis & mirantibus*, in Regem ungi præcepit & coronari. Not one word here, or in all this Story of this Author, of their declaring him King.

A

Brief History, fol. 5. in the Margin.

Post tam Cleri quam Populi solennem & debitam electionem, Rad. de Diceto, fol. 647.

Rad. de Diceto, *Imagines historiarum*, col. 647. n. 40.

Comes Itaque Pictavorum *Ricardus* HÆREDITARIO JURE PROMOVENDUS IN REGEM *post tam Cleri quam Populi solempnem & debitam electionem*, &c.

B

Ibid. fol. 5. In the Body of the History.

King John *applies himself to the People for a more sure Title* [d] *who being summoned together, chose him King.*

Ibid. in the Margin, [*d*] *Prælatorum Comitum & aliorum Nobilium infinita multitudine*, Brompt. 1281.

Chron. Johan. Brompt. col. 1281. n. 40, 50.

Johannes *ab* Huberto *Archiepiscopo* Cantuariensi *in Ecclesia B.* Petri Westmonasterii INUNGITUR ET IN REGEM *ANGLIÆ* CORONATUR ASSISTENTE *Prælatorum, Comitum,* BARONUM *& aliorum Nobilium infinita multitudine.*

C

D

Fol. 10. in the Body of the History.

Please it your Grace to understand the consideration, Election and Petition of the Lords Spiritual and Temporal, and Commons, &c. Cot. Rec. fol. 709. This is all considerable which he cites out of this Record.

Exact Abridgment of Records in the Tower, fol. 709, 710, 711, *&c.*

This is a very long Record, and this is all considerable he cites out of it; whereas the whole Title of *Richard* the Third from Parliament in this Settlement is grounded upon his being (as they pretended) the only true, right and lawful Heir. See what is noted of this Record, and said concerning *Richard* the Third in this History.

E

F

Fol. 11. *in the Body of the History.*

In the 25th year of *Henry* the Eighth, an Act passed, wherein the Parliament, in the Preamble, say, *They were* BOUNDEN *to provide for the perfect Surety of the Suc-*

Pult. Stat. 25 *H.* 8. c. 22. The Preamble.

In their most humblewise shewn unto Your Majesty, your most humble and obedient Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament,

Succession. They did not certainly reckon themselves bound to do a thing that was not in their Power, Stat. 25 *H.* 8. c. 22.

&c. That since it is the natural Inclination of every Man to provide for the Surety both of his Title and Succession, although it touch his only private Cause: We therefore reckon our selves much more BOUNDEN TO BESEECH AND INSTANT YOUR HIGHNESS TO FORESEE AND PROVIDE for the PERFIT SURETY OF BOTH YOU and your MOST LAWFUL SUCCESSION and HEIRS, *upon which dependeth all our Joy and Wealth;* in whom *also is* united *and* knit *the only* meer true Inheritance *and* Title *of this Realm, without Contradiction.*

These are some of his many wilful Mistakes; and indeed, there is scarce one Instance in the Pamphlet, that is not either falsely cited, or falsely applied.

THE

THE APPENDIX.

A Catalogue of all the *Tenents in Capite* or *Serjanty*, That held *all* the Lands in every *County* of the *King*, as they are to be found in *Domesday Book*, set before each *County*: The King is always placed first, and his and the *Crown* Lands Described under the first Title of *Terra Regis*, and the rest follow in their Order, according to the *Numbers*, as *Terra Sanctæ Trinitatis* de *Cantorburia*. *Terra Episcopi Londonienſis*, &c. with all their *Tenents* Names that held their *Towns*, *Manners*, *Lands*, and *Tenements*, under them, *&c.*

Record 1.

Essessa.

I *Willielmus Rex Anglor.*
II *Sancta Trinitas de Cantorburia.*
III *Episcopus Londonienſis.*
IV *Feudum ejuſdem Episcopi.*
V *Canonici Sancti Pauli.*
VI *Abbatia de Westmonaſterio.*
VII *Episcopus Dunelmenſis.*
VIII *Canonici de Waltham.*
IX *Abbatia de Berkinges.*
X *Abbatia de Eli.*
XI *Abbatia Sancti Edmundi.*
XII *Canonici Sancti Martini Londonienſis.*
XIII *Abbatia de Bello.*
XIV *Sanctus Walericus.*
XV *Abbatia Sanctæ Trinitatis de Cadomo.*
XVI *Abbatia Sancti Stephani de eodem.*
XVII *Abbatia Sancti Audoeni.*
XVIII *Episcopus Siaſenſis.*
XIX *Episcopus Herefordenſis.*
XX *Comes Euſtachius.*
XXI *Comes Alanus.*
XXII *Willielmus de Warenna.*
XXIII *Ricardus filius Comitis Gilberti.*
XXIV *Suenus de Essessa.*
XXV *Eudo Dapifer.*
XXVI *Rogerius de Otburnill.*
XXVII *Hugo de Montfort.*
XXVIII *Hamo Dapifer.*
XXIX *Henricus de Ferrariis.*
XXX *Godfridus de Magna villa.*
XXXI *Comes de Ow.*
XXXII *Robertus Greno.*
XXXIII *Radulfus Baignardus.*
XXXIV *Ranulphus Piperellus.*
XXXV *Albericus de Ver.*
XXXVI *Petrus Valonienſis.*
XXXVII *Ranulphus frater Ilgerii.*
XXXVIII *Tihellus Britto.*
XXXIX *Roger. de Ramis.*
XL *Johannes filius Walerani.*
XLI *Robertus filius Corbutionis.*
XLII *Galfridus Diaconus.*
XLIII *Roger. Bigotus.*
XLIV *Robertus Malet.*
XLV *Willielmus de Scohies.*
XLVI *Roger. Pictavienſis.*
XLVII *Hugo de Gurnay.*
XLVIII *Willielmus Piperellus.*
XLIX *Radulfus de Limeſeio.*
L *Robertus de Todeneio.*
LI *Radul. de Todeneio.*
LII *Walt. de Doai.*
LIII *Matheus Mauritanienſis.*
LIV *Comitiſſa de Albemarla.*
LV *Judith Comitiſſa.*
LVI *Frodo frat. Abbatis*
LVII *Saiſelinus.*

LVIII *Giſlebertus filius Turoldi.*
LIX *Willielmus Leuric.*
LX *Hugo de Sancto Quintino.*
LXI *Edmundus filius Algoti.*
LXII *Roger. Mareſcallus.*
LXIII *Adamus filius Durandi.*
LXIV *Goſcelinus Loremanus.*
LXV *Johannes Nepos Walerami.*
LXVI *Willielmus Diaconus.*
LXVII *Galt. Cocus.*
LXVIII *Modvinus.*
LXIX *Ilbodo.*
LXX *Haghebertus.*
LXXI *Tedricus Pointel.*
LXXII *Roger, Deus Salvet Domin.*
LXXIII *Giſlebertus filius Salomonis.*
LXXIV *Willielmus filius Conſtantini*
LXXV *Anſger. Cocus.*
LXXVI *Robertus filius Roſcelini.*
LXXVII *Radus Pinel.*
LXXVIII *Robertus filius Goberti.*
LXXIX *Rainaldus Baliſtarius.*
LXXX *Godvinus.*
LXXXI *Otto Aurifaber.*
LXXXII *Giſlebertus Presbyter.*
LXXXIII *Grimus.*
LXXXIV *Ulvena.*
LXXXV *Edwardus.*
LXXXVI *Turchillus.*
LXXXVII *Stanardus.*
LXXXVIII *Godvinus.*
LXXXIX *Liberi Homines Regis.*
LXXXX *Invaſiones.*

Theſe *Liberi Homines Regis*, were *Taini*, or *Servientes Regis.*

Norfulc.

I *Willielmous Rex.*
II *Epiſcopus Baiocenſis.*
III Comes de Mauritanio.
IV Comes Alanus.
V Comes Euſtachius.
VI Comes Hugo.
VII Robertus Malet.
VIII Willielmus de Warenna.
IX Roger. Bigot.
X Willielmus Epiſcopus Tedfordenſis.
XI Osbertus Epiſcopus.
XII Godricus Dapifer.
XIII Hermer. de Ferrar.
XIV Abbas de Sancto Eadmundo.
XV Abbas de Eli.
XVI Abbas Sancti Benedicti de Ramſio.
XVII Abbas de Hulmo.
XVIII Sanctus Stephanus de Cadamo.
XIX Willielmus de Schoies.
XX Rad. de Belio Fago.
XXI Rainaldus filius Ivonis.
XXII Rad. de Toenio.
XXIII Hugo de Montfort.
XXIV Eudo Dapifer.
XXV Walter. Giffart.
XXVI Roger. Pictavien.
XXVII Ivo Talleboſc.
XXVIII Radus de Limeſeio.
XXIX Eudo filius Spirwic.
XXX Drogo de Beuraria.
XXXI Rad. Bainardus.
XXXII Ramulfus Piperellus.
XXXIII Robertus Grenon.
XXXIV Petrus Valonienſis.
XXXV Robertus filius Corbutionis.
XXXVI Ranulphus frater Ilgeri.
XXXVII Tihellus Britto.
XXXVIII Robertus de Verli.
XXXIX Humfridus filius Alberici.
XL Humfridus de Bohun.
XLI Radus de Felgeres.
XLII Giſlebertus filius Richeri.
XLIII Roger. de Ramis.
XLIV Inichellus Presbyter.
XLV Colebertus Presbyter.
XLVI Edmundus filius Pagani.
XLVII Iſaac.
XLVIII Tonnus.
XLIX Johannes Nepos Walerami.
L Roger. filius Renardi.
LI Bernerus Arbaliſtar.
LII Giſlebertus Arbaliſtar.
LIII Radulfus Arbaliſtar.
LIV Robertus Arbaliſtar.
LV Radus Bellus artifex.
LVI Hugo.
LVII Radus filius Hugon.
LVIII Ulchetellus.
LIX Aluredus.
LX Aldit.
LXI Godvinus Haldenus.
LXII Starcolfus.
LXIII Eldericus Aucipiter.
LXIV De Liberis Hominibus Regis
Ad nullam Firmam pertinent.

LXV De

LXV De Dominic. Hominibus Regis.
LXVI De Invasionibus.

Sudfulc.

I WIllielmus Rex Anglor.
II Comes Maritonienſis.
III Comes Alanus.
IV Comes Hugo.
V Comes Euſtachius.
VI Robertus Malet.
VII Roger. Bigot.
VIII Roger. Pictavienſis.
IX Willielmus de Scoies.
X Hermerus de Ferreris.
XI Ranulfus de Bello Fago.
XII Frodo frater Abbatis.
XIII Godricus Dapifer.
XIV Abbas Sancti Etmundi.
XV Archiepiſcopus.
XVI Epiſcopus Baiocenſis.
XVII Abbas de Remeſeia.
XVIII Epiſcopus Tedfordenſis.
XIX Feudum ejuſdem Epiſcopi.
XX Epiſcopus Rovenſis.
XXI Abbas de Eli.
XXII Epiſcopus Ebroicenſis.
XXIII Abbas Debernai.
XXIV Abbas de Ceterith.
XXV Ricardus filius Comitis Giſleberti.
XXVI Willielmus de Warrenna.
XXVII Suenus de Eſſeſſa.
XXVIII Eudo Dapifer.
XXIX Roger. de Oburvil.
XXX Willielmus frater ejuſdem.
XXXI Hugo de Monteforte.
XXXII Gosfridus de Magna villa.
XXXIII Radus Baignardus.
XXXIV Ranulfus Piperellus.
XXXV Albericus de Ver.
XXXVI Robertus Greno.
XXXVII Petrus Valonienſ.
XXXVIII Roger. de Ramis.
XXXIX Ranulfus frater Ilger.
XL Robertus filius Corbutionis.
XLI Galtrus Diaconus.
XLII Tihellus de Heriow.
XLIII Radus de Limeſeio.
XLIV Robertus de Todeneio.
XLV Galter Giffart.
XLVI Comitiſſa de Albamarla.
XLVII W. de Archis.
XLVIII Drogo de Beureria.
XLIX Hugo de Grentemeſnil.
L Radus de Felgeris.
LI Galt. de Sancto Walerico.
LII Humfridus Camerar.
LIII Eudo filius Spervic.
LIV Willielmus de Watevill.
LV Johannes filius Walerami.
LVI Humfridus filius Alberici.
LVII Hubertus de Monte Caneſio.
LVIII Godvinus.
LIX Saiſſelinus.
LX Robertus de Verli.
LXI Radus Pinel.
LXII Iſaac.
LXIII Normannus.
LXIV Inichellus Presbyter.
LXV Giroldus Mareſcall.
LXVI Robertus Blundus.
LXVII Hervenus Bituriceus.
LXVIII Giſelbertus Baliſtar.
LXIX Radulfus Baliſtarius.
LXX Ranaldus Britto.
LXXI Robertus de Stratford.
LXXII Stanardus.
LXXIII Ulmarus.
LXXIV Valvaſores.
LXXV Liberi Homines:
LXXVI Invaſiones ſuper Regem.

Chenth.

I REx Willielmus.
II Archiepiſcopus Cantuar.
III Monachi & Homines ejus.
IV Epiſcopus Roſeceſtrenſis.
V Epiſcopus Baiocenſis.
VI Abbatia de Bataigle.
VII Abbatia Sancti Auguſtini.
VIII Abbatia de Gand.
IX Hugo de Montfort.
X Comes Euſtachius.
XI Ricardus de Tunbridge.
XII Haimo Vicecomes.
XIII Albertus Capellanus.

Under Num. III. *Tit. Monachi ejus* were comprehended the Lands of the Holy Trinity, and St. *Martin* in *Canterbury*, and perhaps of St. *Martin* in *Dover*. *vid. Monaſt. Angl. vol. 1. f. 26. col. 1. n. 60. & col. 2.*

Sudſexe.

I REx Willielmus.
II Archiepiſcopus Cantuar.
III Epiſcopus Ciceſtrenſis.

IV *Abbas Weſtmonaſter.*
V *Abbas Fiſcannenſis.*
VI *Osbernus Epiſcopus Execeſter.*
VII *Abbatia Wintonienſis.*
VIII *Abbatia de la Bataigle.*
IX *Comes de Ow.*
X *Comes Moritonie.*
XI *Comes Roger.*
XII *Willielmus de Warenna.*
XIII *Willielmus de Braioſa.*
XIV *Odo de Winceſtre.*
XV *Eldred.*

Sudrie.

I REX *Willielmus.*
II *Archiepiſcopus Cantuar.*
III *Epiſcopus Wintonienſis.*
IV *Epiſcopus Osbernus.*
V *Epiſcopus Baiocenſis.*
VI *Abbas de Weſtmonaſt.*
VII *Abbas de Wintonia.*
VIII *Abbas de Certeſy.*
IX *Abbas Sancti Wandregeſili.*
X *Abbas de Cruce Sancti Leutfredi.*
XI *Abbas de la Bataigle.*
XII *Abbatiſſa de Berchinges.*
XIII *Canonici Sancti Pauli London.*
XIV *Eccleſia de Lantheige.*
XV *Comes Euſtachius.*
XVI *Comitiſſa Bononienſis.*
XVII *Comes Moritonienſis.*
XVIII *Comes Rogerus.*
XIX *Ricardus de Tonebrige.*
XX *Willielmus de Braioſe.*
XXI *Willielmus filius Anſculfi.*
XXII *Walterius filius Other.*
XXIII *Walterius de Douai.*
XXIV *Giſlebertus filius Richerii.*
XXV *Goisfridus de Mannevile.*
XXVI *Goisfridus Orlateile.*
XXVII *Edvardus Sarisberie.*
XXVIII *Robertus Malet.*
XXIX *Milo Criſpin.*
XXX *Haimo Vicecomes.*
XXXI *Hunfridus Camerarius.*
XXXII *Radulfus de Felgeres.*
XXXIII *Rainaldus filius Erchebaldi*
XXXIV *Albertus Clericus.*
XXXV *Odardus Baliſtarius.*
XXXVI *Oſwaldus Teodericus & alii Servientes Regis.*

Hanteſcire.

I REX *Willielmus.*
II *Epiſcopus Wintonienſis.*
III *Et Monachi ejus.*
IV *Thomas Archiepiſcopus.*
V *Osbernus Epiſcopus de Exceſtre.*
VI *Abbas Wintonienſis.*
VII *Abbas Glouceſtr.*
VIII *Abbas Weſtmonaſt.*
IX *Abbas de Certeſy.*
X *Abbas Gemmeticenſis.*
XI *Abbas Glaſtingeber.*
XII *Abbas Middletunenſis.*
XIII *Abbas de Greſtam.*
XIV *Abbatiſſa de Winceſtre.*
XV *Abbatiſſa de Romeſyg.*
XVI *Abbatiſſa de Waruuelle.*
XVII *Canonici de Tuinham.*
XVIII *Comes Alanus.*
XIX *Comes Moritonienſis.*
XX *Comes Roger.*
XXI *Comes Hugo.*
XXII *Hugo de Porth de Rege.*
XXIII *Idem de Epiſcopo Baiocenſi.*
XXIV *Hubertus de Porth.*
XXV *Willielmus de Perci.*
XXVI *Ernulfus de Heſding.*
XXVII *Edvard. de Sareſber.*
XXVIII *Robertus filius Giroldi.*
XXIX *Radulfus de Mortimer.*
XXX *Eudo filius Hubert.*
XXXI *Willielmus Bertram.*
XXXII *Willielmus de Ow.*
XXXIII *Willielmus de Braioſa.*
XXXIV *Willielmus de Warrenna.*
XXXV *Willielmus de Maldwith.*
XXXVI *Aluredus Merlebergh.*
XXXVII *Durandus de Glouceſtr.*
XXXVIII *Turſtinus filius Rolf.*
XXXIX *Bernardus Pencevolt.*
XL *Turſtinus Camerarius.*
XLI *Ricardus Sturmie.*
XLII *Ricard. Puingiand.*
XLIII *Giſelbertus de Bretevile.*
XLIV *Hugo filius Baldri.*
XLV *Waleran. Venator.*
XLVI *Walter. filius Other.*
XLVII *Walter. filius Roger. de Piſtes.*
XLVIII *Willielmus filius Manne.*
XLIX *Willielmus Alis.*

L *Willielmus filius Baderon.*
LI *Willielmus filius Stur.*
LII *Willielmus Belet.*
LIII *Willielmus Arcuarius.*
LIV *Herbertus filius Remigii.*
LV *Herbertus Camerar.*
LVI *Henr. Thesaurar.*
LVII *Humfridus Camerarius.*
LVIII *Herbrand de Pont. Audemer.*
LIX *Rainaldus filius Croch.*
LX *Croch Venator.*
LXI *Gozelin. de Cormelijs.*
LXII *Goisfridus Marescal.*
LXIII *Nigellus Medicus.*
LXIV *Aluredus Presbyter.*
LXV *Durandus Tonsorator.*
LXVI *Ranulphus Flamme.*
LXVII *Goisfridus Camerar. filius Regis.*
LXVIII *Hugo Alabarbe.*
LXIX *Alii plures servientes Regis.*
LXX *Odo de Wincestre & Alii multi Taini Regis.*

In Insula de With.

I *Rex Willielmus.*
II *Episcopus Wintonienſis.*
III *Ecclesia Sancti Nicholai.*
IV *Abbatia de Lire.*
V *Abbatia Wiltunienſis.*
VI *Willielmus filius Stur.*
VII *Willielmus filius Azor.*
VIII *Gozelinus filius Azor.*
IX *Godricus Presbyter & alii plures.*

Item in eodem Comitatu circa Novam Foreſtam.

I *Rex Willielmus.*
II *Episcopus Wintonienſis.*
III *Comes Roger.*
IV *Willielmus de Ow.*
V *Radulfus de Mortemer.*
VI *Hugo de Porth.*
VII *Edvardus de Saresber.*
VIII *Ranulfus Flammar.*
IX *Hugo & Odo & Alii plures.*

The *Plures* here were *Taini*, &c.

Berrocheſcire.

I *Rex Willielmus.*
II *Episcopus Wintonienſis.*
III *Episcopus Sarisberienſis.*
IV *Episcopus Dunelmenſis.*
V *Episcopus Exceſtrenſis.*
VI *Episcopus Conſtantienſis.*
VII *Abbatia Abandonienſis.*
VIII *Abbatia Glaſtengeber.*
IX *Abbatia Weſtmonaſt.*
X *Abbatia Wintonienſis.*
XI *Abbatia Certeſy.*
XII *Abbatia Sancti Albani.*
XIII *Abbatia Sancti Petri Sur. Dive.*
XIV *Abbatia de la Bataigle.*
XV *Abbatiſſa de Wincestre.*
XVI *Abbatiſſa de Ambresberie.*
XVII *Comes Ebroicenſis.*
XVIII *Comes Hugo.*
XIX *Comes Mortitonenſ.*
XX *Walter. Giffard.*
XXI *Henr. de Ferier.*
XXII *Willielmus filius Anſculfi.*
XXIII *Willielmus de Ow.*
XXIV *Willielmus Peverel.*
XXV *Willielmus Braioſ.*
XXVI *Willielmus Loveth.*
XXVII *Willielmus filius Corbution.*
XXVIII *Willielmus filius Richardi.*
XXIX *Willielmus de Calgi.*
XXX *Walter. filius Pontz.*
XXXI *Walter. filius Other.*
XXXII *Eudo filius Huberti.*
XXXIII *Milo Criſpin.*
XXXIV *Ghilo frater Anſculfi.*
XXXV *Haſcoit Muſard.*
XXXVI *Giſelbertus de Breteville.*
XXXVII *Gilbertus de Gand.*
XXXVIII *Goisfridus de Manneville.*
XXXIX *Osbertus Giffart.*
XL *Robertus filius Girold.*
XLI *Robertus de Olgi.*
XLII *Robertus de Stadford.*
XLIII *Ricardus Puingiand.*
XLIV *Roger. de Lueri.*
XLV *Roger. de Laci.*
XLVI *Radulfus de Mortemer.*
XLVII *Radulfus de Todeni.*
XLVIII *Radulfus filius Comitis.*
XLIX *Ra-*

XLIX *Radulfus filius Scifride.*
L *Ernulfus de Heſdinge.*
LI *Hugo filius Baldrici.*
LII *Hugo de Porth.*
LIII *Hunfridus Camerar.*
LIV *Hunfridus vil. de Lero.*
LV *Turſtinus filius Rolfi.*
LVI *Albertus.*
LVII *Ainulfus Vicecomes.*
LVIII *Hugolinus Stirman.*
LIX *Mathæus de Moritania.*
LX *Bernardus Accipitrar.*
LXI *Reinbaldus Presbyter.*
LXII *Grimbaldus.*
LXIII *Teodricus Aurifaber Odo & alii plures Taini.*

Wilteſcire.

I *Rex Willielmus.*
II *Epiſcopus Wintonienſis.*
III *Epiſcopus Sarisberienſis.*
IV *Epiſcopus Baiocenſis.*
V *Epiſcopus Conſtantienſis.*
VI *Epiſcopus Liſiacenſis.*
VII *Abbatia Glaſtingberienſ.*
VIII *Abbas Malmsberienſ.*
IX *Abbatia Weſtmonaſterii.*
X *Abbatia Wintonienſis.*
XI *Abbatia Creneburnenſis.*
XII *Abbatiſſa Sceftesberienſis.*
XIII *Abbatiſſa Wiltunienſis.*
XIV *Abbatiſſa Wintonienſis.*
XV *Abbatiſſa Romeſienſis.*
XVI *Abbatiſſa Ambresberienſis.*
XVII *Eccleſia Beccenſis.*
XVIII *Giraldus Presbyter de Wiltune.*
XIX *Canonici Liſianſenſes.*
XX *Comes Moritonienſis.*
XXI *Comes Roger.*
XXII *Comes Hugo.*
XXIII *Comes Albericus.*
XXIV *Edvardus de Sarisber.*
XXV *Ernulfus de Hesding.*
XXVI *Aluredus de Merlebergh.*
XXVII *Hunfridus de Inſula.*
XXVIII *Milo Criſpin.*
XXIX *Giſlebertus de Bretteville.*
XXX *Durandus de Glouceſter.*
XXXI *Walter. Gifart.*
XXXII *Willielmus de Ow.*
XXXIII *Willielmus de Braioſe.*
XXXIV *Willielmus de Mojun.*
XXXV *Willielmus de Faleiſe.*
XXXVI *Walſinius de Dowai.*
XXXVII *Waleranus Venator.*
XXXVIII *Willielmus filius Widonis.*
XXXIX *Henricus de Ferier.*
XL *Ricardus filius Com. Giſleberti.*
XLI *Radulfus de Mortemer.* A
XLII *Robertus filius Girold.*
XLIII *Robertus filius Rolf.*
XLIV *Roger. de Curcelle.*
XLV *Roger. de Barchelai.*
XLVI *Bernald Pancevolt.*
XLVII *Berenger. Gifart.*
XLVIII *Osbernus Gifart.*
XLIX *Drogo filius Ponz.* B
L *Hugo Laſne.*
LI *Hugo filius Baldrici.*
LII *Hunfridus Camerar.*
LIII *Gunfridus Maldwith.*
LIV *Aluredus de Hiſpania.*
LV *Ainulfus Vicecomes.*
LVI *Nigellus Medicus.*
LVII *Osbernus Presbyter.* C
LVIII *Ricardus Puingiand.*
LIX *Robertus Mareſcal.*
LX *Robertus Flavus.*
LXI *Ricardus Sturmia.*
LXII *Rainaldus Canus.*
LXIII *Maci de Moritania.*
LXIV *Gazelinus Rivere.*
LXV *Godeſcal.* D
LXVI *Herman & alii Servientes Regis.*
LXVII *Odo & alii Taini Regis.*
LXVIII *Herveus & alii Miniſtri Regis.*

Dorſete. E

I *Rex Willielmus.*
II *Epiſcopus Sarisberienſis.*
III *Monachi Scireburne*
IV *Epiſcopus Baiocenſis.*
V *Epiſcopus Conſtantienſis.*
VI *Epiſcopus Liſiacenſis.*
VII *Epiſcopus Lundonienſis.* F
VIII *Abbatia Glaſtinber.*
IX *Abbatia Wintonienſis.*
X *Abbatia Creneburnenſis.*
XI *Abbatia de Cernel.*
XII *Abbatia de Middletune.*
XIII *Abbatia de Abedesberie.*

XIV *Ab-*

XIV Abbatia de Hortune.
XV Abbatia de Adelingi.
XVI Abbatia de Taveſtock.
XVII Abbatia de Cadomis.
XVIII Abbatia Sancti Wandregiſili.
XIX Abbatiſſa de Sceftesberie.
XX Abbatiſſa de Wiltune.
XXI Abbatiſſa de Cadom.
XXII Abbatiſſa de Monaſter. Villar.
XXIII Canonici Conſtantiens.
XXIV Reinbaldus Presbyter & alii Clerici.
XXV Comes Alanus.
XXVI Comes Moritonenſis.
XXVII Comes Hugo.
XXVIII Roger. de Belmont.
XXIX Roger. de Curcelle.
XXX Robertus filius Girold.
XXXI Edvardus de Sarisber.
XXXII Ernulfus de Hesding.
XXXIII Turſtinus filius Rolf.
XXXIV Willielmus de Ow.
XXXV Willielmus de Faleiſe.
XXXVI Willielmus de Mojun.
XXXVII Willielmus de Braioſe.
XXXVIII Willielmus de Scohies.
XXXIX Walſeinus de Douvai.
XL Waleran. Venator.
XLI Walter. de Clavile.
XLII Baldvinus de Exceſtre.
XLIII Berenger Gifart.
XLIV Osbernus Gifart.
XLV Maci de Moritanie.
XLVI Roger. Arundell.
XLVII Serlo de Burci.
XLVIII Ainulfus Vicecomes.
XLIX Hunfridus Camerar.
L Hugo de Porth.
LI Hugo de Sancto Quintino.
LII Hugo de Boſcherberti.
LIII Hugo de Luri & alii Franc.
LIV Uxor Hugonis.
LV Iſeldis.
LVI Gudmund. & alii Taini.
LVII Willielmus Belet & alii Servientes Regis.
LVIII Comitiſſa Bolonienſis.

IV Epiſcopus Baiocenſis.
V Epiſcopus Conſtantienſis.
VI Epiſcopus Wellenſis.
VII Eccleſia de Bada.
VIII Eccleſia Glaſtingberienſis.
IX Eccleſia Micelenienſis.
X Eccleſia Adelingienſis alias Glaſtonienſis.
XI Eccleſia Romana Sancti Petri.
XII Eccleſia de Cadom.
XIII Eccleſia de Monteburg.
XIV Eccleſia de Sceftesberie.
XV Epiſcopus Mauricius.
XVI Clerici tenentes de Rege.
XVII Comes Euſtachius.
XVIII Comes Hugo.
XIX Comes Moritonienſis.
XX Baldvinus de Exceſtre.
XXI Roger. de Curcelle.
XXII Roger. Arundell.
XXIII Walter. Gifart.
XXIV Walter. vel Waſcinus de Douuai.
XXV Willielmus de Mojun.
XXVI Willielmus de Ow.
XXVII Willielmus de Faleiſe.
XXVIII Willielmus filius Widonis.
XXIX Radulfus de Mortimer.
XXX Ranulphus de Pomerei.
XXXI Radulfus Pagenell.
XXXII Radus de Limeſe.
XXXIII Robertus filius Giroldi.
XXXIV Aluredus de Merleberge.
XXXV Aluredus de Hiſpaniâ.
XXXVI Turſtinus filius Rolf.
XXXVII Serla de Burei.
XXXVIII Odo filius Gamelin.
XXXIX Osberne Gifart.
XL Edvardus de Sarisber.
XLI Ernulfus de Heſding.
XLII Gilbertus filius Turold.
XLIII Godebold.
XLIV Mattheus de Moritaniâ.
XLV Hunfridus Camerar.
XLVI Robertus de Odburnile & alii Servientes Regis.
XLVII Taini Regis.

Summerſete.

I Rex Willielmus.
II Epiſcopus Wintonienſis.
III Epiſcopus Sarisberienſis.

Deveneſcire.

I Rex Willielmus.
II Epiſcopus de Exceſtre.
III Epiſcopus Conſtantienſis.
IV Ec-

IV *Eccleſia Glaſtingberie.*
V *Eccleſia de Taveſtock.*
VI *Eccleſia de Bucfeſth.*
VII *Eccleſia de Hortune.*
VIII *Eccleſia de Creneburne.*
IX *Eccleſia de la Bataigle.*
X *Eccleſia de Rotomago Sancti Mart.*
XI *Eccleſia de Monte Sancti Michael.*
XII *Eccleſia Sancti Stephani de Cadom.*
XIII *Eccleſia Sanctæ Trinit. de Cadom.*
XIV *Comes Hugo.*
XV *Comes Moritonienſis.*
XVI *Baldvinus Vicecomes.*
XVII *Judhell de Todenais.*
XVIII *Willielmus de Moimi.*
XIX *Willielmus Chieure.*
XX *Willielmus Faleiſe.*
XXI *Willielmus de Poilgi.*
XXII *Willielmus de Ow.*
XXIII *Walter. de Donnai.*
XXIV. *Walter. de Clavile.*
XXV *Walterius.*
XXVI *Gozelinus.*
XXVII *Ricardus filius Giſleberti Comit.*
XXVIII *Roger. de Buſli.*
XXIX *Robertus de Albamarla.*
XXX *Robertus Baſtard.*
XXXI *Ricardus filius Turolf.*
XXXII *Radulfus de Limeſi.*
XXXIII *Radulfus de Pagenell.*
XXXIV *Radulfus de Felgeres*
XXXV *Radulfus de Pomerei.*
XXXVI *Ruald Adobed.*
XXXVII *Tedbaldus filius Bernerii.*
XXXVIII *Truſtinus filius Rolf.*
XXXIX *Aluredus de Hiſpania.*
XL *Aluredus Brito.*
XLI *Anſgerus.*
XLII *Ainulfus.*
XLIII *Odo filius Gamelin.*
XLIV *Osbernus de Salceid.*
XLV *Uxor Hervei de Helion.*
XLVI *Giroldus Capellanus.*
XLVII *Girardus.*
XLVIII *Godobaldus.*
XLIX *Nicholaus.*
L *Fulcherus.*
LI *Haimericus.*
LII *Willielmus & alii Servientes Regis.*
LIII *Colvin & alii Taini Regis.*

Cornvalgie.

I R *Ex Willielmus.*
II *Epiſcopus de Execeſtre.*
III *Eccleſia de Taveſtoch.*
IV *Eccleſia aliquor. Sanctorum.*
V *Comes Moritonienſis.*
VI *Judahell de Todenais.*
VII *Gozelinus.*

Midleſexe.

I R *Ex Willielmus.*
II *Archiepiſcopus Cantuar.*
III *Epiſcopus Lundon. & Canonici ejus.*
IV *Abbatia de Weſtmonaſt.*
V *Abbatia Sanctæ Trinitat. Rotom.*
VI *Abbatia de Berchinges.*
VII *Comes Rogerius.*
VIII *Comes Moritonienſis.*
IX *Goisfridus de Manneville.*
X *Ernulfus de Heſding.*
XI *Walterius filius Other.*
XII *Walterius de Sancto Walerico.*
XIII *Ricardus filius Gilberti Com.*
XIV *Robertus Gernon.*
XV *Robertus Faſiton.*
XVI *Robertus filius Roſelini.*
XVII *Robertus Blundus.*
XVIII *Roger. de Ramis.*
XIX *Willielmus filius Anſcu'ſi.*
XX *Edvardus de Sarisberie.*
XXI *Albericus de Ver.*
XXII *Ranulfus frater Ilgeri.*
XXIII *Herman.*
XXIV *Juditha Comitiſſa.*
XXV *Elemoſinarii Regis.*

Hertfordſcire.

I R *Ex Willielmus.*
II. *Archiepiſcopus Cantuar.*
III *Epiſcopus Wintonienſis.*
IV *Epiſcopus Londonienſis.*
V *Epiſcopus Baiocenſis.*
VI *Epiſcopus Laſiacenſis.*
VII *Epiſcopus Ceſtrenſis.*
VIII *Abbas de Ely.*

IX Abbas

IX *Abbas de Westmonast.*
X *Abbas de Sancto Albano.*
XI *Abbatissa de Cetriz.*
XII *Canonici de Lundonia.*
XIII *Canonici de Waltham.*
XIV *Comes Moritonienſis.*
XV *Comes Alanus.*
XVI *Comes Euſtachius.*
XVII *Comes Roger.*
XVIII *Robertus de Olgi.*
XIX *Robertus de Gernon.*
XX *Robertus de Todeni.*
XXI *Radulfus de Todeni.*
XXII *Radulfus de Limeſeio.*
XXIII *Radus Bainard.*
XXIV *Ranulfus frater Ilger.*
XXV *Hugo de Grentemeſnil.*
XXVI *Hugo de Belcampo.*
XXVII *Willielmus de Ow.*
XXVIII *Willielmus de Otburvil.*
XXIX *Walter. Flandrenſis.*
XXX *Eudo Dapifer.*
XXXI *Edvardus Saresberienſ.*
XXXII *Goisfridus de Manneville.*
XXXIII *Goisfridus de Bech.*
XXXIV *Goisbertus de Belvaco.*
XXXV *Petrus Valonienſ.*
XXXVI *Hardvinus de Eſcalers.*
XXXVII *Edgar.*
XXXVIII *Maigno Brito.*
XXXIX *Gilbertus filius Solomonis.*
XL *Sigar de Cioches.*
XLI *Darman, & alii Regis Thaini.*
XLII *Rotharias Uxor Ricardi filius Gilberti Comitis.*
XLIII *Abeliz. Uxor Hugonis.*
XLIV *Filia Randulfi Talgeboſch.*

Bochinghamſcire.

I R *Ex Willielmus.*
II *Archiepiſcopus Cantuar.*
III *Epiſcopus Wintonienſ.*
IV *Epiſcopus Lincolienſis.*
V *Epiſcopus Baiocenſis.*
VI *Epiſcopus Conſtantienſis.*
VII *Epiſcopus Liſiacenſis.*
VIII *Abbas Weſtmonaſt.*
IX *Abbas de Sancto Albano.*
X *Abbatiſſa de Berching.*
XI *Canonici de Oxeneford.*
XII *Rainbaldus Presbyter.*
XIII *Comes Moritonienſis.*
XIV *Comes Hugo de Ceſtre.*
XV *Walterius Gifart.*
XVI *Willielmus de Warenna.*
XVII *Willielmus Peverell.*
XVIII *Willielmus filius Anſculfi.*
XIX *Ricardus de Todeni.*
XX *Robertus de Oilgi.*
XXI *Robertus Gernon.*
XXII *Goisfridus de Manneville.*
XXIII *Gilbertus de Gand.*
XXIV *Milo Criſpin.*
XXV *Edvardus de Sarisberie.*
XXVI *Hugo de Bellocamp.*
XXVII *Hugo de Bolebech.*
XXVIII *Henricus de Ferrariis.*
XXIX *Walterius de Vernon.*
XXX *Walterius filius Other.*
XXXI *Walterius Flandrenſis.*
XXXII *Willielmus de Felgeres.*
XXXIII *Willielmus Camerarius.*
XXXIV *Willielmus filius Conſtantini.*
XXXV *Willielmus filius Magni.*
XXXVI *Turſtinus filius Rolf.*
XXXVII *Turſtinus Mantell.*
XXXVIII *Radus de Felgeres.*
XXXIX *Bertramus de Verduno.*
XL *Nigellus de Albinio.*
XLI *Nigellus de Bereville.*
XLII *Roger de Iveri.*
XLIII *Ricardus de Ingania.*
XLIV *Maimo Brito.*
XLV *Gozelinus Brito.*
XLVI *Urſo de Berſeres.*
XLVII *Venemarus.*
XLVIII *Martinus.*
XLIX *Herveus Legatus.*
L *Haſcoit Muſart.*
LI *Gunfridus de Cioches.*
LII *Gilo frater Anſculfi.*
LIII *Mathildis Regina.*
LIV *Juditha Comitiſſa.*
LV *Azelina Uxor Tolgeboſch.*
LVI *Taini Regis & Elemoſinarii.*

Oxeneford ſcire.

I R *Ex Willielmus.*
II *Archiepiſcopus Cantuarienſis.*
III *Epiſcopus Wintonienſis.*

IV Episcopus Saresberiensis.
V Episcopus Execeſtrenſis.
VI Episcopus Lincolienſis.
VII Episcopus Baiocenſis.
VIII Episcopus Liſiacenſis.
IX Abbatia Abindonienſis.
X Abbatia de la Bataigle.
XI Abbatia de Wincelcumbe.
XII Abbatia de Pratellis.
XIII Eccleſia Sancti Dioniſii Pariſii
XIV Canonici de Oxeneford & alii Clerici.
XV Comes Hugo.
XVI Comes Moritonienſis.
XVII Comes Ebroicenſis.
XVIII Comes Albericus.
XIX Comes Euſtachius.
XX Walter. Gifart.
XXI Willielmus filius Anſculfi.
XXII Willielmus de Warenna.
XXIII Willielmus Peverell.
XXIV Henricus de Ferier.
XXV Hugo de Bolebech.
XXVI Hugo de Luri vel Luci.
XXVII Robertus de Stadford.
XXVIII Robertus de Oilgi.
XXIX Roger. de Luri vel Leuri.
XXX Radus de Mortemer.
XXXI Ranulfus Peurell.
XXXII Ricardus de Curci.
XXXIII Ricardus Puinguiand.
XXXIV Berenger de Todeni.
XXV Milo Criſpin.
XXXVI Wido de Reinbodcurth.
XXXVII Ghilo Frater Anſculfi.
XXXVIII Gilbertus de Gand.
XXXIX Goisfridus de Maneville.
XL Ernulfus de Heſding.
XLI Edwardus de Saresberie.
XLII Swain Vicecomes.
XLIII Aluredus Nepos Wigot.
XLIV Wido de Oilgi.
XLV Walterius Pontz.
XLVI Willielmus Leuric.
XLVII Willielmus filius Manne or Magni.
XLVIII Ilbodus frater Ernulfi de Heſding.
XLIX Reinbaldus.
L Robertus filius Murdrac.
LI Osbernus Gifart.
LII Benzelinus.
LIII Judithæ Comitiſſa.
LIV Chriſtina.
LV Uxor Roger. de Luri.
LVI Haſcoit Muſard.
LVII Turchill.
LVIII Richardus Ingan. & alii Miniſtri Regis.
LIX Willielmus Comes de Warenna.

A

Gloweceſtreſcire.

I Rex Willielmus.
II Archiepiſcopus Eboracenſis.
III Episcopus de Wireceſtre.
IV Episcopus de Hereforde. B
V Episcopus de Execeſtre.
VI Episcopus de Sancto Laudo.
VII Eccleſia de Bade.
VIII Abbatia de Glaſtingberie.
IX Abbatia de Malmesburie.
X Abbatia de Glowceſtre.
XI Abbatia de Wincelcumbe.
XII Abbatia de Eveſham. C
XIII Abbatia de Abendone.
XIV Abbatia de Perſore.
XV Abbatia de Coventreu.
XVI Abbatia de Cormelies.
XVII Abbatia de Lire.
XVIII Abbatia de Egleſham.
XIX Abbatia de Weſtmonaſt.
XX Eccleſia Sancti Dioniſii Pariſii. D
XXI Eccleſia de Lanheig.
XXII Eccleſia Sancti Ebrulfi.
XXIII Eccleſia Sanctæ Trinitat. Cadomenſ.
XXIV Eccleſia de Troarz.
XXV Eccleſia de Cireceſtre.
XXVI Renbaldus Presbyter. E
XXVII Comes Rogerius.
XXVIII Comes Hugo.
XXIX Comes Moritonienſis.
XXX Gilbertus Mannoth Epiſcopus Liſiaſenſis.
XXXI Willielmus de Ow.
XXXII Willielmus filius Baderon.
XXXIII Willielmus Camerarius. F
XXXIV Willielmus Goizenboded.
XXXV Willielmus filius Widon.
XXXVI Willielmus Froiſſelew.
XXXVII Willielmus filius Norman.
XXXVIII Willielmus Luric.
XXXIX Roger. de Laci.

XL Roger.

XL Roger. de Belmont.
XLI Roger. de Luri.
XLII Roger. de Berchelai.
XLIII Radulfus frater ejus.
XLIV Radulfus Pagenell.
XLV Radulfus de Todeni.
XLVI Robertus de Todeni.
A XLVII Robertus Dispensator.
XLVIII Robertus de Oilgi.
XLIX Ricardus Legatus.
L Osbernus Gifart.
LI Goisfridus Orleteile.
LII Gilbertus filius Turold.
LIII Durandus Vicecomes.
LIV Drogo filius Ponz.
B LV Walterius filius Pontz.
LVI Walterius filius Roger.
LVII Walterius Diaconus.
LVIII Walterius Balistarius.
LIX Henricus de Ferriers.
LX Ernulphus de Hesding.
LXI Heraldus filius * Radi Comitis.
LXII Hugo de Grentemaisnel.
C LXIII Hugo Lasne.
LXIV Milo Crispin.
LXV Urso de Abbatot.
LXVI Hascoit Musard.
LXVII Turstinus filius Rolfi.
LXVIII Ansfridus de Cormelies.
LXIX Hunfridus Camerarius.
LXX Hunfridus de Medehall.
D LXXI Hunfridus Coquus.
LXXII Sigar de Cioch s.
LXXIII Maci de Moritanie.
LXXIV Gozelinus Britto.
LXXV Roger. filius Radulfi.
LXXVI Uxor Geri.
LXXVII Baldvinus.
LXXVIII Elfi & alii Taini Regis.
E

* This *Ralph* was Earl of *Hereford* before the Conquest, he was Son to *Walter* de *Mant*, a *French* or *Norman*, who maried *Goda* Sister to *Edward* the Confessor. *Dug. Bar. Tom.* 1. *f.* 21. *col.* 2. he is to be found in *Berk. Werwic*, and *Worcester shires*. See *Flor. Wigorn. f.* 629. *A. D.* 1055

F

Wirecestrescire.

I REx Willielmus.
II Ecclesia de Wirecestre.
III Episcopus de Hereford.
IV Ecclesia Sancti Dionisii.
V Ecclesia de Coventreu.
VI Ecclesia de Cormelies.
VII Ecclesia de Glouceſtre.
VIII Ecclesia de Westmonast.
IX Ecclesia de Perfore.
X Ecclesia de Evesham.
XI Episcopus Baiocensis.
XII Ecclesia Sancti Guthlaci.
XIII Clerici de Wrehantone.
XIV Comes Roger.
XV Radulfus de Todeni.
XVI Radulfus de Mortemer.
XVII Robertus de Stadford.
XVIII Roger. de Laci.
XIX Osbernus filius Ricardi.
XX Gilbertus filius Turoldi.
XXI Drogo filius Ponz.
XXII Heraldus filius Radulfi.
XXIII Willielmus filius Anselmi.
XXIV Willielmus filius Corbution.
XXV Willielmus Goozenboded.
XXVI Urso de Abetoth.
XXVII Hugo Lasne.
XXVIII Eldeve.

Herefordscire.

I WIllielmus Rex.
II Episcopus de Hereford.
III Ecclesia de Cormelies.
IV Ecclesia de Lire.
V Ecclesia de Glouceſtre.
VI Ecclesia Sancti Guthlaci.
VII Nigellus Medicus.
VIII Radulfus de Todeni.
IX Radus de Mortemer.
X Roger. de Laci.
XI Roger. de Mucelgros.
XII Robertus Gernon.
XIII Henricus de Felgeres.
XIV Willielmus de Scohes.
XV Willielmus filius Baderon.
XVI Willielmus filius Norman.
XVII Turstinus filius Rolf.
XVIII Albertus Lotharienſis.
XIX Aluredus de Merleberge.
XX Aluredus de Hispaniâ.
XXI Ansfridus de Cormelies.
XXII Durandus de Glouceſtre.
XXIII Drogo filius Pontz.
XXIV Osbernus filius Ricardi.

Herefordſcire & in Arſenfield in Walis.

XXV Gilbertus filius Turold.
XXVI Gilbertus filius Turold.
XXVII Herman de Drunes.
XXVIII Hunfridus de Buiville.
XXIX Hugo Laſne.
XXX Orſo de Abetoth.
XXXI Griffin.
XXXII Raynerius.
XXXIII Carbon.
XXXIV Uxor Radulfi Capellani.
XXXV Stefanus.
XXXVI Madoch, Edric, Elmer.

These were *Taini* or *Servientes Regis*.

Grentebr. ſcire.

I Rex Willielmus.
II Epiſcopus Wintonienſis.
III Epiſcopus Lincolienſis.
IV Epiſcopus Rofenſis.
V Abbas de Ely.
VI Abbas de Sancto Edmundo.
VII Abbas de Rameſy.
VIII Abbas de Torni.
IX Abbas de Croyland.
X Abbas Sancti Wandregiſili.
XI Abbatiſſa de Citeriz.
XII Comes Moritonienſis.
XIII Comes Roger.
XIV Comes Alanus.
XV Comes Euſtachius.
XVI Canonici Baiocenſes.
XVII Walter. Gifart.
XVIII Willielmus de Warrennâ.
XIX Ricardus filius Gilberti Comitis
XX Robertus de Todeni.
XXI Robertus Gernon.
XXII Goisfridus de Manneville.
XXIII Gilbertus de Gand.
XXIV Gilbertus filius Turoldi.
XXV Eudo Dapifer.
XXVI Hardvinus de Scalers.
XXVII Hugo de Berneres.
XXVIII Hugo de Port.
XXIX Albericus de Ver.
XXX Euſtachius de Huntedune.
XXXI Wido de Rembecurt.
XXXII Petrus de Valonienſes.
XXXIII Picot de Grantebridge.
XXXIV Ranulfus frater Ilgeri.
XXXV Johan. filius Walerani.
XXXVI Willielmus filius Anſculfi.
XXXVII Willielmus Cahanges.
XXXVIII Robertus Faſiton.
XXXIX David. de Argentoun.
XL Duo Carpentarii Regis. A
XLI Juditha Comitiſſa.
XLII Azelina Uxor Radulfi Tallgeboch.
XLIII Uxor Boſſelini de Dive.
XLIV Erchenger Piſtor.

Huntedunſcire. B

I Rex Willielmus.
II Epiſcopus Lincolienſis.
III Epiſcopus Conſtantienſis.
IV Abbatia de Ely.
V Abbatia de Creuland.
VI Abbatia de Rameſy.
VII Abbatia de Torny. C
VIII Abbatia de Burg.
IX Comes Euſtachius.
X Comes de Ow.
XI Comes Hugo.
XII Walter. Gifart.
XIII Willielmus de Warrenna.
XIV Hugo de Bolebech.
XV Eudo filius Huberti, de Rie; ſive Dapifer. D
XVI Swaine de Eſſeſſa.
XVII Roger. de Luri.
XVIII Ernulfus de Heſding.
XIX Euſtachius Vicecomes.
XX Juditha Comitiſſa.
XXI Gilbertus de Gand.
XXII Albericus de Ver. E
XXIII Willielmus filius Anſculfi.
XXIV Ranulfus frater Ilgeri.
XXV Robertus Faſiton.
XXVI Willielmus Ingania.
XXVII Radulphus filius Oſmund.
XXVIII Rohais Uxor Ricardi.
XXIX Taini Regis. F

Bedefordſcire.

I Rex Willielmus.
II Epiſcopus Baiocenſis.
III Epiſcopus Conſtantienſis.
IV Epiſ-

IV Episcopus Lincolienſis.
V Episcopus Dunelmenſis.
VI Abbas de Sancto Edmundo.
VII Abbas de Burg.
VIII Abbas de Rameſy.
IX Abbas de Weſtmon.
X Abbas de Torny.
A XI Abbatiſſa de Berching.
XII Canonici de Lundon.
XIII Canonici de Bedeford.
XIV Ermimus Presbyter.
XV Euſtachius Comes.
XVI Walter. Gifart.
XVII Willielmus de Warenna.
XVIII Willielmus de Ow.
B XIX Milo Criſpin.
XX Ernulfus Heſding.
XXI Eudo Dapifer.
XXII Willielmus Peverel.
XXIII Hugo de Beleampo.
XXIV Nigellus de Albingi.
XXV Willielmus Spech.
XXVI Robertus de Todeni.
C XXVII Gilbertus de Gand.
XXVIII Robertus de Oilgi.
XXIX Ranulfus frater Ilger.
XXX Robertus Faſiton.
XXXI Aluredus de Lincolnie.
XXXII Walter. Flandrenſis.
XXXIII Walter. frater Setherii.
XXXIV Hugo Flandrenſis.
D XXXV Hugo Pincerna.
XXXVI Sigarus de Cioches.
XXXVII Gunfridus de Cioches.
XXXVIII Ricardus filius Gilberti Comitis.
XXXIX Ricardus Puingiant.
XL Willielmus Camerarius.
XLI Willielmus Lovet.
E XLII Willielmus.
XLIII Henricus filius Azor.
XLIV Osbernus filius Ricardi.
XLV Gilbertus filius Salom.
XLVI Osbernus filius Walter.
XLVII Osbernus Piſcator.
XLVIII Turſtinus Camerarius.
XLIX Albertus Lotharienſis.
F L David de Argentan.
LI Radulfus de Inſula.
LII Gozelinus Brito.
LIII Judita Comitiſſa.
LIV Adeliza uxor Hug. de Grentemeſnil.
LV Adelina fœmina Radi Tallgeboſc.
LVI Burgenſes de Bedford.
LVII Præfecti Regis, & Bedelli, & Elemoſynarii.

Northant. ſcire.

I Willielmus Rex.
II Epiſcopus Baiocenſis.
III Epiſcopus Dunelmenſis.
IV Epiſcopus Conſtantienſis.
V Epiſcopus Lincolienſis.
VI Abbatia de Burg.
VII Abbatia de Weſtmonaſt.
VIII Abbatia de Sancto Edmundo.
IX Abbatia de Rameſy.
X Abbatia de Tornyg.
XI Abbatia de Creuland.
XII Abbatia de Coventreu.
XIII Abbatia de Eveſham.
XIV Abbatia de Greſtain.
XV Eccleſia Sancti Remigii Remenſis.
XVI Anſgerus Capellanus.
XVII Lewinus Presbyter & alii Clerici.
XVIII Comes Moritonienſis.
XIX Comes de Mellent.
XX Comes Alanus.
XXI Comes Albericus.
XXII Comes Hugo.
XXIII Hugo de Grentemeſnil.
XXIV Hugo de Luri.
XXV Henricus de Ferieres.
XXVI Robertus de Todeni.
XXVII Robertus de Stadford.
XXVIII Robertus de Oilgi
XXIX Robertus de Veci.
XXX Robertus de Buci.
XXXI Radus Pagenell.
XXXII Radulfus de Limeſeio.
XXXIII Robertus Albus.
XXXIV Willielmus de Cahainges.
XXXV Willielmus Peverell.
XXXVI Willielmus filius Anſculfi.
XXXVII Willielmus Loveth.
XXXVIII Walterius de Aincurth.
XXXIX Walterius Flandrenſis.
XL Winemarus.
XLI Wido de Renbodcurth.
XLII Eudo filius Huberti.
XLIII Ghilo frater Anſculfi.
XLIV Goisfridus Alſelinns.
XLV Goisfridus de Manneville.
XLVI Gil-

XLVI *Gilbertus de Gand.*
XLVII *Goisfridus de Wirce.*
XLVIII *Gunfridus de Cioches.*
XLIX *Sigar de Cioches.*
L *Suaine Vicecomes.*
LI *Siboldus.*
LII *Ogerius Brito.*
LIII *Drago de Brueria.*
LIV *Maino Brito.*
LV *Euſtachius de Huntedune.*
LVI *Judita Comitiſſa.*
LVII *Gilbertus Coquus.*
LVIII *David.*
LIX *Ricardus.*
LX *Willielmus & alii Taini.*

Ledeceſtreſcire.

I R *Ex Williemus.*
II *Archiepiſcopus Eboracenſis.*
III *Epiſcopus Lincolienſis.*
IV *Epiſcopus Conſtantienſis.*
V *Abbatia de Burgh.*
VI *Abbatia de Coventreu.*
VII *Abbatia de Cruiland.*
VIII *Godvinus Presbyter & alii Elemoſynarii.*
IX *Comes de Mellend.*
X *Comes Albericus.*
XI *Comitiſſa Godeva, uxor Comitis Leofrici, qui obiit* 1057. or *Godeva* for *Godo*, Siſter to *Edward* the Confeſſor, and Wife to Earl *Euſtachius* of *Bologne.*
XII *Comitiſſa Alveva.*
XIII *Comes Hugo.*
XIV *Hugo de Grentmaiſnil.*
XV *Henricus de Ferieres.*
XVI *Robertus de Todeni.*
XVII *Robertus de Veci.*
XVIII *Roger. de Buſli.*
XIX *Robertus Piſcator.*
XX *Robertus Hoſtiarius.*
XXI *Radulfus de Mortemer.*
XXII *Radulfus filius Huberti.*
XXIII *Wido de Reinbodcurth.*
XXIV *Wido de Credune.*
XXV *Willielmus Penrell.*
XXVI *Willielmus Bunenvaſteth.*
XXVII *Willielmus Loveth.*
XXVIII *Goisfridus Alſelin.*
XXIX *Goisfridus de Wirce.*
XXX *Goisfridus de Cambray.*

* Dugd. Warwicſhire, f. 50. col. 2.

XXXI *Gunfridus de Cioches.*
XXXII *Hunfridus Camerarius.*
XXX II *Gilbertus de Gand.*
XXXIV *Gilbertus.*
XXXV *Durandus Malet.*
XXXVI *Drogo de Beurere.*
XXXVII *Maimo Brito.*
XXXVIII *Ogerius Brito.*
XXXIX *Nigellus de Albingi.*
XL *Juditha Comitiſſa.*
XLI *Adeliza Uxor Hugonis.*
XLII *Herbertus & alii servi.*
XLIII *Hugo Comes.*
XLIV *Homines Comit. de Mellent.*

Warwicſcire.

I R *Ex Willielmus.*
II *Epiſcopus de Ceſtre.*
III *Epiſcopus de Wireceſtre.*
IV *Epiſcopus Baiocenſis.*
V *Epiſcopus Conſtantienſis.*
VI *Abbatia de Coventreu.*
VII *Abbatia de Abendon.*
VIII *Abbatia de Bertone.*
IX *Abbatia de Malmesburie.*
X *Abbatia de Wincelcumbe.*
XI *Abbatia de Eveſham.*
XII *Comes Roger.*
XIII *Comes Hugo.*
XIV *Comes Albericus.*
XV *Comitiſſa Godeva.*
XVI *Comes de Mellent.*
XVII *Turchil de Warwic.*
XVIII *Hugo de Grentemaiſnil.*
XIX *Henricus de Ferieres.*
XX *Roger. de Luri.*
XXI *Robertus de Oilgi.*
XXII *Robertus Statford.*
XXIII *Robertus Diſpenſator.*
XXIV *Robertus de Veci.*
XXV *Radulfus de Mortemer.*
XXVI *Radulfus de Limeſei.*
XXVII *Willielmus filius Anſculfi.*
XXVIII *Willielmus filius Corbution.*
XXIX *Willielmus Buenvaſteth.*
XXX *Goisfridus de Magneville.*
XXXI * *Goisfridus de Wercc.*
XXXII *Gilbertus de Gand.*

* He was of *Britany* in *France*, and of the Family aſſuming that name, from the Territory there, called *Guercke*, adjoyning to *Anjou*.

XXXIII *Gil-*

XXXIII *Gilbertus filius Turoldi.*
XXXIV *Gerimus.*
XXXV *Urso de Abetot.*
XXXVI *Stefanus.*
XXXVII *Osbernus filius Ricardi.*
XXXVIII *Heraldus filius Radi Comitis.*
XXXIX *Hasculfus Hascoit Musard.*
XL *Nicholaus Balistarius.*
XLI *Nigellus de Albingi.*
XLII *Christina.*
XLIII *Levena.*
XLIV *Eddie.*
XLV *Ricardus, & alii Taini & Servientes Regis.*
XLVI *Adeliza Uxor Hugonis.*

Statfordscire.

I *Rex Willielmus.*
II *Episcopus de Cestre.*
III *Abbatia Westmonast.*
IV *Abbatia Bertonensis.*
V *Ecclesia Sancti Remigii Remensis.*
VI *Canonici de Stadford & Handone.*
VII *Sanson Clericus.*
VIII *Comes Roger.*
IX *Hugo de Montgomeri.*
X *Henricus de Ferier.*
XI *Robertus de Stadford.*
XII *Willielmus filius Ansculfi.*
XIII *Ricardus Forestarius.*
XIV *Rainaldus Balgiole.*
XV *Radulfus filius Huberti.*
XVI *Nigellus.*
XVII *Chennin & alii Taini.*

Sciropescire.

I *Episcopus de Cestre.*
II *Episcopus de Hereford.*
III *Ecclesia Sancti Remigii.*
IV *Comes Roger.*
V *Osbernus filius Ricardi.*
VI *Radulfus de Mortemer.*
VII *Rogerus de Laci.*
VIII *Hugo Lasne.*
IX *Nigellus Medicus.*

Quod reliquum est tenet Comes Roger cum suis hominibus.

Cestre-scire.

Tenet Episcopus ejusdem Civitatis de Rege quod pertinet ad suum Episcopatum cum suis hominibus.

Totam reliquam Terram Comitatus tenet Hugo Comes de Rege.

Terra inter Ripe & Mersham tenuit Rogerius Pictaviensis, modo tenet Rex.

This *Roger* of *Poitou* was Third Son of *Roger de Montgomery*, made Earl of *Arundel* and *Shrowsbury* by the Conqueror; he had the Title of *Montgomery* from a small Town of that name, in the small County of *Liewin*, or *Lisieux* in *Normandy*, bearing the Title of an Earldom, and when he took the Town of *Baldwin* in *Wales*, he called it after his own name *Montgomery*, where he built the Castle. Dugd. Baron. Tom. 1. fol. 27. col. 2. Ibidem col. 1.

Darbyscire.

I *Rex Willielmus.*
II *Episcopus de Cestre.*
III *Abbatia de Bertone.*
IV *Hugo Comes.*
V *Rogerus Pictavensis.*
VI *Henricus de Ferier.*
VII *Willielmus Penrell.*
VIII *Walterius de Anicurt.*
IX *Goisfridus Alselin.*
X *Radulfus filius Huberti.*
XI *Radulphus de Burun.*
XII *Hascoit Musard.*
XIII *Gilbertus de Gand.*
XIV *Nigell de Statford.*
XV *Robertus filius Willielmi.*
XVI *Roger. de Busli.*
XVII *Taini Regis.*

Snotinghamscire.

I *Rex Willielmus.*
II *Comes Alanus.*
III *Comes Hugo.*
IV *Comes Moritonensis.*
V *Archiepiscopus Eboracensis.*
VI *Episcopus Lincoliensis.*
VII *Episcopus Baiocensis.*
VIII *Abbatia de Burgh.*
IX *Roger.*

IX *Roger. de Buſly.*
X *Willielmus Peverell.*
XI *Walterius de Aincurt.*
XII *Goisfridus Alſelin.*
XIII *Radulfus filius Huberti.*
XIV *Radulfus de Limeſei.*
XV *Radulfus de Burun.*
XVI *Rogerus Pictavienſis.*
XVII *Gilbertus de Gand.*
XVIII *Gilbertus Tiſon.*
XIX *Goisfridus de Wirce.*
XX *Ilbertus de Laci.*
XXI *Berenger de Todeni.*
XXII *Hugo filius Baldrici.*
XXIII *Hugo de Grentemaiſnill.*
XXIV *Henricus de Ferieres.*
XXV *Robertus Malet.*
XXVI *Durandus Malet.*
XXVII *Osbernus filius Ricardi.*
XXVIII *Robertus filius Willielmi.*
XXIX *Willielmus Hoſtiarius.*
XXX *Taini Regis.*

Rotelande.

I *Rex.*
II *Juditha Comitiſſa.*
III *Robertus Malet.*
IV *Ogerius.*
V *Gilbertus de Gand.*
VI *Hugo Comes.*
VII *Albertus Clericus.*

Euruicſcire.

I *Terra Regis.*
II *Archiepiſcopi Eboracenſis & Canonicorum & hominum ejus.*
III *Epiſcopi Dunelmenſis & hominum ejus.*
IV *Abbatis de Eboraco.*
V *Hugo Comes.*
VI *Robertus Comes de Moritonio.*
VII *Alanus Comes.*
VIII *Robertus de Todeni.*
IX *Berenger de Todeni.*
X *Ilbertus de Laci.*
XI *Roger. de Buſli.*
XII *Robertus Malet.*
XIII *Willielmus de Warennâ.*
XIV *Willielmus de Veci.*
XV *Drogo de Holderneſſe.*
XVI *Radulfus de Mortemer.*
XVII *Randulfus Pagenell.*
XVIII *Walter. de Aincurt.*
XIX *Gilbertus de Gand.*
XX *Gilbertus Tiſon.*
XXI *Hugo filius Baldrici.*
XXII *Erneis de Burun.*
XXIII *Osburnus de Arcis.*
XXIV *Odo Baliſtarius.*
XXV *Ricardus filius Erfaſti.*
XXVI *Goisfridus Alſelin.*
XXVII *Albericus de Coci.*
XXVIII *Goſpatric.*
XXIX *Terra Tainorum Regis.*

Lincoleſcire.

I *Terra Regis.*
II *Archiepiſcpoi Eboracenſis.*
III *Epiſcopi Dunelm.*
IV *Epiſcopi Baiocenſis.*
V *Epiſcopi Oſmundi Sarisberienſis.*
VI *Epiſcopi Conſtantienſis.*
VII *Epiſcopi Lincolienſis.*
VIII *Abbatis de Burg.*
IX *Abbatis de Weſtminſt.*
X *Abbatis de Rameſyg.*
XI *Abbatis de Croilande.*
XII *Alanus Comes.*
XIII *Hugo Comes.*
XIV *Ivo Talleboſc.*
XV *Willielmus de Warenna.*
XVI *Roger. Pictavienſis.*
XVII *Roger. de Buſli.*
XVIII *Robertus de Todeni.*
XIX *Berenger de Todeni.*
XX *Ilbertus de Laci.*
XXI *Henricus de Ferariis.*
XXII *Willielmus de Verci.*
XXIII *Gilbertus Tiſon.*
XXIV *Giſlebertus de Gand.*
XXV *Hugo filius Baldrici.*
XXVI *Colſuani.*
XXVII *Alured. de Lincolnie.*
XXVIII *Gozelini filius Lamberti.*
XXIX *Eudo filius Spirwic.*
XXX *Radulfus Pagenel.*
XXXI *Drogo de Brurere.*
XXXII *Walterius de Aincurt.*
XXXIII *Normanus de Aldreci.*
XXXIV *Normanus Craſſus.*
XXXV *Erneis de Burun.*
XXXVI *Radus de Mortemer.*
XXXVII *Ro-*

A B C D E F

XXXVII *Robertus de Veci.*
XXXVIII *Robertus Dispensator.*
XXXIX *Wido de Renbudcurt.*
XL *Raynerius de Brunon.*
XLI *Osbernus de Arcis.*
XLII *Ogerius Brito.*
XLIII *Ranulph. de Sancto Wallerico.*
A XLIV *Durandus Malet.*
XLV *Martinus.*
XLVI *Waldinus Brito.*
XLII *Waldinus Ingeniosus.*
XLVIII *Odo Balistarius.*
XLIX *Willielmus Blundus.*
L *Restoldi.*
LI *Godfridus de Cambray.*
B LII *Gunfridus de Cioches.*
LIII *Osbernus Presbyter.*
LIV *Radus Dapifer.*
LV *Ansgotus.*
LVI *Judita Comitissa.*
LVII *Wido de Credune.*
LVIII *Robertus Malet,*
LIX *Robertus de Stadford.*
LX *Petrus de Valon.*
LXI *Heppo Balistarius.*
LXII *Radulfus filius Huberti.*
LXIII *Goisfridus de Wirce.*
LXIV *Goisfridus Alselinus.*
LXV *Balvinus Flandrensis.*
LXVI *Willielmus Talleboſc.*
LXVII *Colegrin.*
LXVIII *Sortebrand.*
LXIX *Chetelbern, & aliorum.*
LXX *Regis Taini.*

Lancashire.

C All the Lands between the Rivers *Mersey* and *Ribble* in *Lancashire*, which were the greatest part of it, *Rogerius Pictaviensis* held them, but at the time of the finishing the Survey, they were in the Kings hands: the other part of *Lancashire* is described in *Yorkshire.*

Westmorland, *Cumberland*, and *Northumberland*, are not described, for that they might be at that time in the hands of the *Scots*, or else in such condition as no Commissioners dare adventure into them, to take the Returns of Juries, and make the Survey.

D *Rex Willielmus misit Justiciarios suos per unamquamque Scyram*, i. e. *Provinciam Angliæ & inquirere fecit per Jusjurandum, quot Hydæ*, &c. *Hæc autem omnia in Chartis Scripta & delata sunt ad Regem, & inter Thesauros reposita usque hodie servantur. Rad. de Diceto. col.* 487. *n.* 50. This *Ralph* was Dean of St. *Pauls*, and flourished about the year 1210. *Pitsæus* in that year. *De script. Anglicis.*

E These very words are transcribed from *Henry* of *Huntingdon*, f. 212. *a. n.* 10. where he describes an Hyde to be *Jugera uni aratro sufficientia per annum*; he died *Anno* 1148. in the Reign of King *Stephen*, 54 years after this Survey was made.

Porro liber ille (meaning this Survey) *sigilli regii Comes est individuus in Thesauro*: That is the Exchequer, *Gervas. Tilb. lib.* 1. *c.*28. *in fine in lib. Cajo-Gon.* p. 41. *a.*

F Speaking further of this Book, he says, *Discretissimos à latere suo destinavit viros per Regnum in circuitu. Ab his itaque totius terræ descriptio diligens facta est tam in Nemoribus, quam pascuis & pratis, necnon & agriculturis*, &c. *Fit autem descriptio per Comitatus, per centurias & Hidas prænotato in Capite ipso, Regis nomine, ac deinde seriatim aliorum Procerum, nominibus appositis secundum status sui dignitatem; qui* viz. *de Rege Tenent in Capite; apponuntur autem singulis*

numeri, ſecundum ordinem ſic diſpoſiti, per quos inferius, in ipſa libri ſerie, quæ ad eos pertinent, facilius occurrunt, Ibid. c. 29. in lib. Cajo-Gon. p. 41. a. b.

I have ſhewn in the Reign of the Conqueror, that this Survey was made by Commiſſioners and Juries; and this Catalogue contains all the Names of ſuch in every County, that held all the Lands of each County of the King, and were moſt of them *Tenents* in *Capite*, or Petit Serjanty, for 'tis moſt certain what Sir *Edward Coke* ſays: [1] That all the Lands and Tenements in *England*, were holden either immediately or mediately of the King: The Tenents Names are firſt noted in every County, before the Entrys of particular mens Lands; always the King is placed firſt, and then the others follow according to the numbers here ſet down, which in the Survey it ſelf are witten with Red Ink. One Example or two will make it clear.

[1] First Inſtit. f. 65. a. f. 98 a. 2 Inſtitut. f. 501.

A

B

Dorſete.

N. XXVI. *Terra Comitis Moritonienſis.*

[2] Domeſday f. 79. a. col. 2.

COmes [2] *Moriton. Ten. Weſtone & Haimo de eo Godric, & Bruno tenuerunt in Paragio T. R. E. pro* ij *Maner. & Geld.* pro vij *Hid. Terra eſt* vj *Car. In Dominio ſunt* ij. *Car. &* v. *ſervi &* xiv *villani &* vij *Bordar. cum* i *Car. & Dimid. ib.* xl *Acr. prati & ſilva Dimid. leu. long. & Tantund. valuit* iv *lib. modo* vii *lib.*

C

Dorſetſhire.

The Land of the Earl of Moreton.

D

THe Earl of *Moreton* holds *Weſton*, and *Haimo* of him, *Godric* and *Bruno* held it in Parage in the time of King *Edward* for two Maners, and it *gelded* or was *taxed* for ſeven *Hides*, the Land is eight *Carucates* or *Plough-lands*; the Demeaſns or Lands in the Lords hands, are two *Carucates* and five *Servants*, and fourteen *Villans*, and ſeven *Bordars* with one Carucate and an half, there are forty Acres of Meadow, and Wood half a Mile long, and as much broad, it was valued at four Pounds, now ſeven Pounds.

E

This Earl of *Moreton* was half Brother to the Conqueror, and though it is not ſaid in this *Entry* he held of the King, yet his having a *number* before his Title, is *enough* to ſhew he was a *Tenent* in *Capite*, or held otherwiſe immediately of the King.

F

Somerſete.

N. XVIII. *Terra Hugonis Comitis.*

[3] Ibidem f. 91. b. col. 2.

COmes [3] *Hugo Tenet de Rege Tedintone, & Willielmus de eo, Ednod Tenuit T. R. E. & Geld. pro una Hida. Terra eſt* iv *Carucat. In Dominio eſt una Car. &* iv *Serui &* v *villani &* viii *Bordar. cum* ii *Car. ib.* v *acr. prati &* C *Acr. Paſtur. &* xl *Acr. ſilv. valuit & valet* xl *ſolid.*

Somer-

Somerſetſhire.

The Land of Earl Hugh.

A EArl *Hugh* holds of the King *Tedinton,* and *William* of him: *Ednod* held it in the time of King *Edward,* and it Gelded, or was Taxed at one Hide, the Land is four Carucates: In Demeaſns or the Lords hands is one Carucate, and four Servants, and five Villans, and eight Bordars with two Carucates. There is five Acres of Meadow, and an hundred Acres of Paſture, and forty Acres of Wood, it was valued at 40 s. now as much.

B *Deveneſcire.*

N. XV. *Terra Comitis Moritonienſis.*

A *Lured* [4] *Tenet de eo Stocherlie, ipſe Tenebat* T. R. E. *& Geld. pro uno ferling. Terra eſt* i *Caruc. quæ ibi eſt cum* iii *Bordar. &* ii *ſerv. valet.* x *ſol.* [4] Ibidem. f. 104. b. 1. col.

C *Godwinus Ten. Childerleia de eo, ipſe Tenuit* T. R. E. *& Geld. pro Tribus Ferling. Terra eſt* i *Car. valet. v. ſol.*

Devonſhire.

The Land of the Earl of Moreton.

D A *Lured* holds of him *Stochelie,* he held it in the time of King *Edward,* as it was rated at one Ferling, the Land is one Carucate, which is there, with three Bordars, and two Servants, it is worth 10 s. *per annum.*

Godwin holds *Childerley* of him, he himſelf held it in the time of King *Edward,* it was taxed or rated for three Ferlings, the Land is one Carucate, and is worth five ſhillings.

E

Before the Deſcription of *Shropſhire* it is ſaid, and in ſome other Countries.

Hic [5] *annotantur Tenentes Terram de Rege in* Sciropſcire: Here are noted the Tenents, or ſuch as hold Lands of the King, which were only Nine. And then it follows: *Quod reliquum eſt Tenet Comes Rogerus, cum Hominibus ſuis.* The Reſidue Earl *Roger* with his men doth hold, and ſome of the men, or Tenents of Earl *Roger,* were theſe underwritten. [5] Domeſday f. 252. a. col. 1.

F

Rainaldus [6] *Vicecomes* held of Earl *Roger* 63 Towns, Maners, or Farms in *Shropſhire.* [6] Ibidem. f. 254. a. col. 2.

Roger [7] *Fitz-Corbet* held of him 25 Towns, or Maners, with other ſmall Parcels. [7] Ibidem. f. 255. b. col. 1.

[8] Ibidem f.256.a. col.1. *Robert* [8] *Fitz-Corbet*, held of him fourteen Towns or Maners or Farms.

[9] Ibid.col.2 *Robert* [9] the Butler held of him ſix Towns or Maners or Farms.

[1] Ibidem. *Roger* [1] *de Curcell* held of him five Towns or Maners or Farms.

[2] Ibidem. *Roger* [2] *de Laci* held of him ſixteen Towns and Maners or Farms.

[3] Ib.b.col.2. *Robert* [3] *Filius Tedbaldi*, or *Fitz-Theobald* held of him four Towns or Maners or Farms.

[4] Ibidem. *Ralph* [4] *Mortimer* held of him twenty Towns or Maners or Farms.

[5] Ibidem. *Ranulph* [5] *Peverel* held of him four Towns, Maners or Farms.

[6] Ibidem f.257.a. col.2. *William* [6] *de Waren* held of him one Town.

[7] Ibidem. *William* [7] *Pantulf* held of him 28 Towns or Maners, *&c.*

[8] Ib.b.col.1. *William* [8] *Maldebeng* held of him four Towns or Maners, *&c.*

[9] Ibid.col.2. *Turold* [9] held of him thirteen Towns or Maners, *&c.*

[1] Ib.f.258.a col. 1, 2. *Picot* [1] held of him 25 Towns or Maners, *&c.*

[2] Ib.b.col.1. *Helgot* [2] held of him nineteen Towns or Maners, *&c.*

[3] Ibid.col.2 *Gerard* [3] held of him eighteen Towns or Maners, *&c.*

[4] Ibidem f.259 a. col.1. *Roger* [4] *Venator* the Huntſman, or *Venables*, held of him ſix Towns or Maners, *&c.*

[5] Ibidem. *Norman* [5] held of him ſix Towns or Maners, *&c.*

And many others in that County, which held of Earl *Roger* leſs quantities of Land.

All that held under the direct and immediate Title of the *Terra Regis*, were the ordinary Tenents of his *Demeaſns*, and where it is ſaid *Rex Tenet*, ſuch a Town, he held it in his own hands, and managed it by a *Præpoſitus* or *Reve* and Servants; and ſo of other great Tenents *in Capite*; where it is ſaid they held ſuch and ſuch Maners and Towns, without mentioning any *Tenent* that held under them, (unleſs it were an omiſſion of the Commiſſioners that took the Survey, or their Clerks, or the Ignorance of the Jury or Inqueſt, that might not know them) they were moſt commonly in their own hands, and managed by a *Præpoſitus* or *Reve* and Servants. If it were otherwiſe, and the under Tenents were named, it was thus entered.

* *Sumerſete, Domeſday*, f.98 a. col.2.

Terra * *Giſleberti filii Turoldi.*

GIſlebertus *filius Turoldi Ten. de Rege Chiweſtoch & Osbernus de eo, Edric Tenebat* T.R.E. *& geldebat pro una Hida & Dimid. Terra eſt* ii *Carucat. Quæ ibi ſunt in Domin. &* ii *Servi &* ii *Bordarii &* xx *Acr. Prati, &* x *Acr. Silvæ Minute. Olim* xx *ſol. modo val.* xxx *ſol.*

The Land of Gilbert Fitz-Turold.

GIlbert the Son of *Turold* holds *Chiweſtoch* of the King, and *Osbern* of him. *Edric* held it in the time of King *Edward*, it *Gelded* or was *Taxed* for one *Hide* and a half, The Land is two *Carucates* which are there in *Demeaſn*, and two *Servants*, and two *Bordars*, and twenty Acres of *Meadow*, and ten Acres of ſmall *Wood*, formerly it was valued at twenty ſhillings now thirty.

Walterus

Walterus ten. de * G. *Tumbeli. Edric Teneb.* T. R. E. *& Geldebat pro* v *Hid. Terra eſt* v *Carucat. in Domin. eſt* i *Car. &* ii *Serv. &* v *Villani &* iv *Bordar. &* iv *Coſcez. cum* iii *Caruc. ibi Molendin. redd.* xxx *Denar. &* xxxv *Acr. prat. Paſtur.* i *leug. long. dimid. leug. lat. & tantund. ſilvæ quando Recep. valeb. C. ſol. modo tantund.*

* i. e. *Gilberto fil. Turoldi.* ib. f. 98. col. 2.

A *Walter* holds of G. *(Gilbert Fitz-Turold) Tumbeli. Edric* held it in the time of King *Edward*, it *Gelded* or was *Taxed* for five Hides. The Land is five *Carucates*. In *Demeaſn* is one *Carucate*, and two *Servants*, and five *Villains*, and four *Bordars*, and four *Cottars* or *Cotagers*, with three *Carucs*, Ploughs, or Plough-lands. There is a *Mill* which pays thirty Pence, and 35 Acres of *Meadow* and *Paſture* a Mile long, and half a Mile broad, and Wood as much; when he received it, 'twas worth an hundred ſhillings, and then as much.

B We find under the laſt Number, in almoſt every County, *Taini Regis*, or *Servientes Regis*, and often [6] *Chenuin & alii Taini Regis* xvii. [7] *Richardus & alii Taini, & Servientes Regis*, N. xlv. [8] *Richardus Ingane, & alii Miniſtri Regis*, N. lviii. many of them are to be found ſcattered up and down *Domeſday-Book*, and their Imployments: as in *Wiltſcire* Title or Number lxvii. [9] *Terra Odonis & aliorum Tainorum Regis*; **Foreſtarii** *Ten.* 1. *Hid. in Foreſta de Gravelings*, &c. The Land of *Odo* and other the Kings *Thanes*.

[6] In Stadfordſcire.
[7] Warwicſcire.
[8] Oxenefordſcire.
[9] Domeſday f. 74. a. col. 2.

C The Foreſters hold one Hide in the Foreſt of Gravelings, *&c.* under the [1] Title of *Terra Servientium Regis*, The Land of the Kings Servants. N. lxvi. *Gundwinus Granetarius*, and *Warinus Arbaliſtarius*: *Gundwin* that looked after the Granary, and Warin, the Croſs-bow man are to be found. There alſo are to be found, *Turſtin*, and two *Alberics*, and *Odin*, all Chamberlains. [2] *Godwinus Præpoſitus*, *Godwin* the Kings Bayliff, one that managed his Farms for him in *Dorſete*, under the Title of *Terra Tainorum Regis*, The Land

[1] Ibidem f. 74. b. col. 2.

[2] Ibidem f. 84. a. col. 2.

D of the Kings Thanes, N. lvi. in the ſame County, N. lvii. under the Title [3] of *Servientes Regis*, *Cubicularius*, *& Piſtor*, a Chamberlain and Baker are noted. *Hugolinus Interpres*, [4] *Hugolin* the Interpreter in *Deveneſcire*, under the Title of *Terra Servientium Regis*. [5] *Willielmus Portar. & Willielmus Hoſtarius*. *William* the Porter, and *William* the Door-keeper, and under that Title the Prieſts or Chaplains were comprehended. [6] *Ipſi Presbyteri ten. Niwetone*, the Prieſts or Chaplains hold *Newton*. In *Hanteſcire* we

[3] Ibidem f. 85. col. 1.
[4] Ibidem f. 99. col. 2.
[5] Ibidem f. 117. b. col. 1.

E find *Waleranus Venator*, *Waleran* the Huntſman, *Willielmus Arcuarius*, *William* the Bowyer, *Herbertus Camerarius*, *Herbert* the Chamberlain, *Henricus Theſaurarius*, *Henry* the Treaſurer, *Croch Venator*, *Croch* the Huntſman, *Goisfridus Mareſcallus*, *Geofry* the Marſhall, *Nigellus Medicus*, *Nigell* the Phyſitian, *Aluredus Presbyter*, *Alfred* the Prieſt, *Durandus Tonſorator*, *Durand* the Barber, and *Ranulph Flamme*; *Goisfridus Camerarius, filii Regis*, *Geofry* the Kings Sons Chamberlain, and *Humfridus Camerarius*, *Humfry* the Chamber-

[6] Ibid. col. 2.

F lain.

Further to ſhew the meaning of theſe Titles, *Terra Tainorum Regis*, *Servientium Regis*, *& Miniſtri Regis*, and to make plain what the Thanes, Servants, and Miniſters here meant, were, I will inſert an Inquiſition of the Serjancies of *Eſſex* and *Hertfordſhire* in the time of King *John*.

[7] *An*

[7] Red Book in the Exchequer, fol. 137.

[7] *An Inquisition of the Serjancies and Knights Fees in the Twelfth and Thirteenth years of King* John.

Essex, Hertford. A

Serjanciæ eorundem Comitatuum.

The Serjancies of those Counties.

Johannes de Listone per Serjanciam faciendi canestellos.

John of *Liston* by the Service of making Baskets, he held that Town or Farm so called by that Service.

Richardus Marscallus Tenementum suum custodiendi Palefridum Regis. B

Richard the Marshal possessed what he had in those Counties, as Keeper of the Kings Pad or Riding Nag.

Willielmus Parmentarius, Tenementum suum in Stebinge per x solid.

William Parmentar, possessed what he had in *Stebinge*, by ten Shillings Rent. Here ten Shillings Rent is accounted a Serjancy.

Gilbertus de Mepertshall v. s. *in Fullestode per manum Gilberti Mauduit.* C

Gilbert of *Mapertshall* received five Sillings *per annum* by the hands of *Gilbert Mauduit.*

Simon de Assewell dimid. Hidæ in Assewell, per Serjanciam Hostelar.

Simon of *Ashwell* had half a Hide in *Ashwell* by the Serjancy of the Stables.

Petrus Picot dimid. Heydene per Serjantiam serviendi cum una Toalia ad Coronationem Regis. D

Peter Picot holds half *Heyden* by the Serjancy or Service of serving with a Towel at the Coronation of the King.

Petrus filius Petri Picot aliam medietat. per Serjanciam serviendi de Bacinis.

Peter the Son of *Peter Picot*, holds the other half of *Heyden*, by the Service or Serjancy of holding the Bacin or Bason.

Radulfus Monachus Eystane per Serjanciam Lardinariæ.

Ralph the Monk holds *Eystan*, by Serjancy of the Lardar, he was Clerk probably of the Lardar. E

Radus de Toany Wilcomstowe per Serjanciam eundi in propria Persona cum Domino Rege in exercitum.

Ralph de Tony holds *Wilcomstowe* by the Serjancy of going with the King in his own Person into the Army. 'Tis not said with Horse and Arms.

*Willielmus filius Johannis Tenementum in Legre per Serjantiam eundi in exercitum in Walliam cum Domino Rege cum uno equo * sacco & Brocha.* F

William Fitz-John holds a Tenement in *Legre* by the Serjancy of going into the Army with the King, as in the *Glossary.*

Radulfus Picot unam Carucatam in Eidele & unam Carucatam in Salings per Serjanciam custodiendi unum Nisum ad opus Domini Regis, & est de Feodo de Reynes ut dicitur.

*Ralph

* See the Glossary, *in verbis istis.*

Ralph Picot holds one Carucate in *Eidele*, and one Carucate in *Salings*, by the Serjancy of keeping one Hawk for the use of the King, and it is of the Fee of *Reynes* as is said.

Gofridus de Barenton dimid' virgat' in Hethfeld per Serjanciam custodiendi Parcum Regis & Boscum in eadem villa.

Geofry of *Barenton* half a Virgate of Land in *Hatfield* by the Serjancy of keeping the Kings Park and Wood in that Town.

A *Walterus de Hanvill* LX *sol. Terr. in Hallingbury de Walla per Serjanciam Falconariæ per Regem Ricardum.*

Walter of *Hanvill* sixty Shillings of Land by the year, by the Serjancy of the Falconry, or of being one of the Serjants of the Hawks, granted by King *Richard.*

Radus Purtel LX *sol. Terræ ibidem per Serjanciam in Hospitio Regis.*

Ralph Purtel by Serjancy or for Service in the Kings House, sixty Shillings of Land, that is 60 s. *per annum*, in Land of that value.

B *Rogerus de Leyburn, Robertus de Sutton de eo, Bures per Serjanciam Escaldandi porcos Regis.*

Roger de Leyburn holds *Bures*, and *Robert de Sutton* holds it of him, by the Serjancy of scalding the Kings Hogs.

Robertus de Sutton Hundr. de Berdestaple per xviii l. *ad firmam Vicecom. ad Feodi Firmam.*

Robert de Sutton holds the Hundred of *Berdstaple*, by eighteen pounds in Fee-Farm, towards the Sheriffs Farm.

C *William Torel tenet in parva Toriel per Serjanciam Napariæ.*

Walter Torel holds in little *Torel*, by the Serjancy of or attending upon the Napary.

Boydin Aylet Quatuor lib. Terræ in Bradwell per manum Willielmi de Dona per Serjanciam Claviæ.

Boydin Aylet hath four Pounds by the year in Land in *Bradwell*, paid him by *William de Dona*, by the Serjancy of the Club or Mace.

Willielmus Cains sex lib. Terræ ibidem per Serjanciam Claviæ.

D *John Cains* hath there six Pounds by the year in Land, by the Serjancy of the Club or Mace.

Johannes de Sandford, Woluermerstone per Serjanciam in Camera Reginæ, & Fingret & Ginges, & Houmede & Huchamstede.

John de Sanford holds *Wolmerston, Fingret, Ginges, Houmede, & Huchamstede*, by Serjancy or Service in the Queens Chamber.

Willielmus de Moucell parvam Angre per Serjanciam Marescalciæ de Baronia G. de Toany.

E *Willielmus de Moucell* holds little *Angre* by the Serjancy of the Marshalsie, or Service in the Marshals Office, of the Barony of G. *de Tony.*

Robertus Marschallus unam Hidam in Badew per Serjantiam custodiendi Palfridum Regis.

Robert Marshal holds one Hide in *Badew* by the Serjancy or Service of keeping the Kings Palfry or Pad.

Brianus Aquarius Terram quæ fuit Walteri de Martiwas in Writele, per Serjanciam Forestariæ, & per xx *sol.*

F *Brian Waterman* holds the Land which was *Walter Martiwas* his Land, in *Writel* by the Serjancy or Service of the Forest, and by 20 s. Rent.

Gilbertus de Mepertshale duas Hidas per Serjantiam Lardinariæ.

Gilbert of *Mepertshal* holds two Hides by Serjancy in the Larder.

Ricardus de Argentoem Willemundele per Serjanciam serviendi cum unn Cuppa Argentea ad Coronationem Regis.

Richard

Richard Argenten (now *Allington*) holds *Wimondley* by Serjancy, or ſerving with a Silver Cup at the Coronation of the King.

Henry Major London Wattoll per Serjantiam inveniendi unum peditem in exercitu Regis in Wallia cum Arcu & ſagittis.

Henry the Mayor of *London* holds *Wattoll* by the Serjancy of finding a man with Bow and Arrows in the Kings Army in *Wales.*

Wellielmus Hures Tenementum ſuum in Haveringe per Serjantiam cuſtodiendi Parcum.

William Hure holds his Eſtate in *Haveringe*, by the Serjancy of keeping the Park.

Johannes Derwine Tenementum ſuum ibidem per Serjanciam cuſtodiendi forinſecum Boſcum.

John Derwin holds his Eſtate there, by the Serjancy or Service of keeping a Wood in another place diſtant from the Town.

Ricardus filius Aucheri Tenementum ſuum in Eppinges & Waltham per Serjanciam Ateindre coram Rege.

Richard Fitz-Aucher holds his Eſtate in *Eppinge* and *Waltham*, by waiting before the King (as I think) or perhaps, doing ſome Office before him when he travelled.

Mamgarus le Napper Terram in Waltham per Serjanciam Naparię.

Mamgar the Naperer holds his Land in *Waltham* by Serjancy or Service in the Napary.

This Inquiſition of Serjancies was made in every County in *England* at the ſame time, they were Petit Serjancies, and theſe Serjants or Servants were the ſame with the *Thanes*, *Servants*, or Kings *Miniſters* mentioned in *Domeſday-book*, and the Lands of the ſame nature with *Thane* Lands there mentioned, *&c.*

There are in *Eſſex*, *Norfolk* and *Suffolk*, three Titles of the ſame import, and are in no other County, *viz.* in *Eſſex Invaſiones*, N. XC. in *Norfolc de Invaſionibus*, N. LXVI. in *Sudfulc. Invaſiones ſuper Regem*, N. LXXVI. under theſe Heads were contained ſuch Lands as were poſſeſſed without a Title from the Conqueror. That is, they that held them, were neither put in Poſſeſſion by the Sheriff with Authority from the King, nor by his Legal or Special Commiſſioner, nor by his Writ or Brief, and ſo they were Invaders or Intruders, and poſſeſſed without Title, and the Lands called Invaſions.

Communia de termino Sancti Hillarij Anno XVII E. 3.

Penes Remorator. Domini Regis in Scacc.

Recorda.

Warr. de Priore de Coventr. attach. pro transgreſſione.

Record 2.

PRior de Coventr. attachiatus fuit ad reddendum Domino Regi de ſervitio octo feodorum militum per ipſum Priorem & Prædeceſſores ſuos Regi & Progenitoribus ſuis ab Anno 29. Domini Regis H. Proavi ipſius Regis nunc Subſtracto & concelato. Et ipſe Prior per Henricum de Stretford Attorn' ſuum venit. Et ſuper hoc quia Barones plene volunt informari pro Rege per Rotulos & Memoranda Scacarii de de quibuſdam negotium prædictum tangentibus antequam, &c. Datus eſt dies eidem Priori hic ex aſſenſu Willielmi de Thorpe Servientis Regis a die Paſche in quindecim dies eo ſtatu, &c. Ad quem diem Prior venit & quia nondum plene Scrutinium, &c. Datus eſt dies eidem Priori ex præfixione Cur' in Octabas Sanctæ Trinitatis eo ſtatu, &c. Et interim facto ſcrutinio Rotulorum, &c. Compertum eſt in Rotulo 29. Regis Henrici tertii ſub titulo de Auxilio ad primogenitam filiam Regis maritandam videlicet de *quolibet Scuto* xx s. contineri Sic Prior de Coventr' reddit compotum de *decem libris* de *decem feodis* de quibus quidem *decem libris* Willielmus Truſſel Vicecomes dicti Comitatus in Compoto ſuo de Anno 32 ipſius Regis Henrici oneratus fuit inter alia debita quæ debebat in fine ejuſdem Compoti ſicut continetur in magno Rotulo de eodem Anno 32. & in Rotulo 31. ejuſdem Regis Henrici compertum eſt etiam in quodam Rotulo Compotorum titulato Auxilium Epiſcoporum Abbatum Priorum conceſſum ad Sororem Regis Henrici maritandam Fredirico Imperatori videlicet de *quolibet Scuto duas marcas* contineri in hunc modum Prior de Coventr' reddit compotum de *viginti marcis* de eodem. In Theſaurario octo marcas & debet duodecim marcas de quibus reſpondet in Warr' in Rotulo 34. Et in eodem Rotulo 34 requirebantur de ipſo Priore *quindecim marcæ* de *auxilio* ad transfretationem Regis in Vaſconiam & *duodecim* marcæ de auxilio ad Sororem Regis maritandam. De quibus quidem duobus debitis idem Prior poſtmodum Regi Satisfecit ſicut continetur in Rotulis annalibus de annis 36, 39, & 40. dicti Regis Henrici tertii. Item compertum eſt in rotulo de *Servitio* Regis Edwardi filii Regis Henrici Summoniti apud Rothelan die Dominica in craſtino Sancti Petri ad vincula Anno Regni ſui decimo contra Lewelinum filium Griffini & David fratrem ejus & alios Walenſes quod Prior de Coventr. recogn' *Servitium duorum feodorum militum* pro quo finem fecit Et in rotulo de finibus factis pro *Servitiis* Scotiæ Anno ejuſdem Regis Edwardi triceſimo primo annotatur quod Prior & Conventus de Coventr' recognoverunt *Servitium duorum feodorum* militum & *finem* fecerunt per *quadraginta libras.* Et in *Rotulo* de *finibus* pro *Servitiis Scotiæ* Anno 34. ejuſdem Regis Edwardi filii Regis continetur quod Prior de Coventr' per fratrem Johannem Holeweye Commonachum & Attornatum ſuum recognovit *ſervitium duorum feodorum militum* & *finem* fecit pro eodem per *quadraginta marcas.* Et inter *fines* factos in Scaccarii coram tenente locum The-

ſaurarii & Baronibus pro *ſervitiis* Regi debitis in exercitu Scotiæ Anno Regis Edwardi filii Regis Edwardi ſeptimo, videlicet pro *Servitio unius feodi viginti marcas* continetur quod Willielmus Herle & Robertus de Leiceſtr' *finem* fecerunt cum Rege pro Priore de Coventr' pro *ſervitio duorum feodorum militum* per *quadraginta marcas*. Et prædictus Prior ad prædictas Octabas Trinitatis venit ut prius per Attornatum ſuum prædictum. Et Willielmus de Thorp, & Johannes de Stoford Servientes Regis veniunt pro Rege. Et ſuper hoc expoſitis præfato Priori hiis quæ per Scrutinium Rotulorum inveniuntur ut ſupra & per ipſum Priorem auditis & intellectis iidem ſervientes Regis petunt quod idem Prior ſuper hoc reſpondeat, &c. A

Placitum Priorꝛ.

Et prædictus *Prior* dicit quod ipſe & *prædeceſſores* ſui tenuerunt omnia terras & tenementa ſua tam videlicet ea quæ habet in dominico quam in ſervitio per *ſervitium duorum feodorum militum* tantum. Et quod Dominus Rex ſeu *Progenitores* ſui de aliquibus aliis ſervitiis per ipſum *Priorem* ſeu *Prædeceſſores* ſuos nunquam *ſeiſiti* fuerunt per *finem* ſeu *ſervitium* per corpora hominum factum quod liquere poterit per Memoranda hujus Scaccarii ſi fiat inde Scrutinium, &c. Et quoad hoc quod compertum eſt hic in Rotulis, &c. Quod *tempore* dicti Regis Henrici tertii computatum fuit de *certis* pecuniæ *ſummis* de *auxiliis* eidem Regi Henrico ad filium ſuum militem faciendum & Sororem ſuam maritandam conceſſis, hoc ei non prejudicat in hac parte. Dicit enim quod *Auxilia* illa non fuerunt nec cenſeri poſſunt eſſe *Servitia*, immo quædam *ſubſidia* per *Magnates* & *Communitatem* Regni Spontanea & mera voluntate Regi conceſſa, & tam de *tenentibus* aliorum quam de *tenentibus* de Domino Rege *in Capite* levanda quo prætextu dictus Compotus de *auxiliis* prædictis fuit tam pro *feodis tenentium* tunc *Prioris* loci prædicti quam pro *feodis* ipſius *Prioris* propriis, quod idem *Prior* dicit poſſe liquere Curiæ per Certificationem tunc *Prioris* loci prædicti tunc *Baronibus* de Scaccario de mandato Regis Henrici factam de feodis quæ ipſe tunc *Prior* tenuit de veteri feoffamento & de novo ſuper quo certificatum fuit quod feoda quæ dictus tunc Prior tenuit in Dominico & feoda quæ tenentes ſui de ipſo tenuerunt fuerunt in toto decem feoda, &c. Et petit *judicium* deſicut ipſe tenet omnia terras & tenementa ſua per *Servitium duorum feodorum militum tantum*, nec ſit *compertum* hic penes Scaccarium quod Dominus Rex ſeu Progenitores ſui de *aliquibus aliis* ſeu *pluribus ſervitiis* per manus dicti Prioris ſeu Prædeceſſorum ſuorum unquam ſeiſiti fuerunt ſi ipſe de aliquo *feodo* ſeu hujuſmodi *ſervitio concelato* impetiri ſeu calumpniari debet in hac parte. Et ſuper hoc quia dicti ſervientes Regis volunt ſuper reſponſo ſuo deliberare, &c. Datus eſt dies eidem *Priori* hic in Octabas Sancti Hillarii eo ſtatu, &c. Ad quem diem prædictus Prior venit & ob eandem cauſam qua prius datus eſt ei dies ulterior hic a die Paſche in quindecim dies eodem ſtatu quo prius. Ad quem diem idem Prior venit & ob dictam cauſam adjournatur ulterius uſq; quindenam Sanctæ Trinitatis, eo ſtatu, &c. ad quem diem ven' & datus eſt ei dies ulterius uſq; Octabas Sancti Michaelis anno viz. decimo nono Regis hujus eo ſtatu quo, &c. Ad quem diem venit & ob cauſam prædictam adjornatur ulterius uſq; quindenam Sancti Hillarii eo ſtatu, &c. Ad quem diem idem Prior venit & habet diem ulterius uſq; quindenam Sancti Paſche. Ad quem diem idem Prior venit & adjornatur ulterius ob cauſam B C D E F

causam prædictam usq; quindenam Sanctæ Trinitatis. Ad quem diem venit & ob eandem causam habet diem ulterius usq; quindenam Sancti Michaelis. Ad quem diem Prædictus Prior venit & adjornatur ulterius ob causam prædictam usq; quindenam Sancti Hillarii sicut continetur in Memorandis anno vicesimo Regis hujus inter dies datos de Termino Sancti Michaelis.

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Clauſ. 25 E. 1. *m.* 6. *dorſo.*

Record 3.

REx Vicecomiti Eborum Salutem. Quia in relevationem omnium incolarum et populi regni noſtri pro *octava* omnium bonorum ſingulorum laicorum per totum idem regnum pro urgentiſſima nunc dicti regni contra Gallicos neceſſitate levanda conceſſimus pro nobis et heredibus noſtris confirmari et firmiter teneri facere *Magnam Cartam* de libertatibus Anglie et *Cartam* de libertatibus *Foreſte* et concedere omnibus et ſingulis ejuſdem regni literas noſtras patentes quod dicte *octave* levatio non cedet eiſdem in *prejudicium ſervitutem exheredationem* uſum vel conſuetudinem in futurum tibi precipimus firmiter injungentes quod ſine dilatione aliqua duos de probioribus et legalioribus * *Militibus* Comitatus tui eligi et eos plenam poteſtatem pro ipſis et tota *Communitate* dicti Comitatus habentes ad Edwardum filium noſtrum Cariſſimum tenentem in Anglia locum noſtrum venire fac' Ita quod ſint London ad eundem filium noſtrum modis omnibus in octabis Sancti Michaelis proximo futur' ad ultimum *Cartas* ſuper Confirmatione noſtra *Cartarum* prædictarum et * *literas noſtras* ſuper dicta conceſſione pro ipſa Communitate in forma predicta Recepturi, et *facturi* ulterius quod per dictum *filium* et *Conſilium* noſtrum ibidem fuerit *ordinatum* et hoc nullo modo omittas et habeas ibi hoc breve Teſte Edwardo filio Regis apud Sanctum Paulum London decimo quinto die Septembris.

A

B

C

* *No Direction in this Writ to have Citizens, or Burgeſſes choſen.*

* *His Letters That this payment of the Eighth part of their Goods ſhould be no prejudice to them for the future.*

Conſimiles litere diriguntur Singulis Vicecomitibus per Angliam.

D

E

In-

F

Inter Communia Brevia de Termino Sanctæ Trin. Anno Regni Regis E. 1. XXXIV.

MEmorandum quod cum nuper Dominus Rex ordinaſſet quod *Edwardus* Filius ſuus primogenitus in Feſto *Pentecoſtes* Anno Regno ſui triceſſimo quarto Cingulo Militie decoraretur & mandatum eſſet Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus & aliis Magnatibus Regni quod eſſent coram ipſo Domino Rege & Concilio ſuo apud Weſtmon. in craſtino Sanctæ Trinitat. proximo ſequente ad tractandum & ordinandum A de auxilio Regis faciendo ad Militiam prædictam & ad Conſentiendum hiis quæ ulterius ordinarentur in hac parte vel quod procuratores aut attornatos ſuos ſufficienter inſtructos ad premiſſa loco eorum facienda mitterent tunc ibidem.

Penes Rememorat' Domini Theſ. in Scaccario Record. 4.

Ac etiam præceptum fuiſſet ſingulis Vicecomitibus Angliæ quod eorum quilibet venire faceret de Com. ſuo ad præfatos diem & locum *duos Milites*, & de qualibet *Civitate* Ballivæ ſuæ *duos* cives, B & de quolibet Burgo ejuſdem Ballivæ ſuæ *duos* Burgenſes, vel* *unum* &c. Ad tractandum ordinandum & conſentiendum ſicut prædictum eſt.

* *This Record is cited in Mr.* Petit's *Appendix, but he hath left out the word* Unum, *which is alſo to be found in the Writ of Summons to this Parliament, Cl.* 34. Edw. 1. *M.* 15. *Dorſ. in Ced. T. R. apud Winton,* 5 *Die April.*

Venerunt perſonaliter coram Rege & Conſilio ſuo apud Weſtmon. ad diem illum Antonius Bek Patriarcha Jeroſolomitanus Epiſcopus Dunolm. W. de Langeton Coventr. & Lich. Radus de Baldok Lodon Epiſcopi, H. de Lacy Comes Lincoln J. de Warenna Comes C Surr. R. de Monte Hermer. Comes Glouceſtr. & Hertf. H. de Boun Comes Hereford G. de Bello Campo Comes Warr. Robertus filius Walteri Hugo le Deſpenſer Johannes de Haſtinges Hugo de Veer, Willielmus Martyn, Henricus le Tyeys, Johannes Lovell, Rogerus de Mortuomari Johannes de Mohum Alanus la Zouche, Will's de Reyburn, & Robertus de Burgherſh, Cuſtos Quinque Portuum cum quibuſdam Baronibus Portuum eorundem.

D Ac etiam per Procuratores & Attornatos Robertus Cantuar. & Will's. Ebor. Archiepiſcopi Thom. Exon Richardus Hereford, Johannes Wynton, Johannes Ciceſter, Thom. Roffen, Robertus Elyen, Johannes Norwycen, Johannes Lincoln, Simon Sarum, Will's Wygorn, Walterus Bathon, & Wellen, & Johannes Karliol Epiſcopi, Abbates Weſtmon. Sancti Edmundi, Sancti Auguſtini Cantuar. Sancti Albani, Glaſtonie, Burg. Sancti Petri Rammeſeye, Thorneye, Seleby, & Malmesbury, Sancti Petri Glouceſtr. Rogerus Comes Norff. E & Marſc. Angliæ Thomas Comes Lancaſtr, Edmundus Comes Arundell, & quam plures alii *Prælati Magnates*, & *Proceres* Regni; Nec non de *quolibet* Comitatu Regni ejuſdem duo Milites & de *qualibet* Civitate duo Cives & de *quolibet* Burgo duo Burgenſes electi per *Communitates Comitatuum Civitatum*, & Burgorum eorundem ad præmiſſa loco *Communitatum* eorundem tractandum, ordinandum & Conſentiendum ſimiliter venerunt.

Quibus

Quibus prædictis omnibus *Congregatis* coram *Concilio* Regis prædicto ipsisq; ostenso per idem *Concilium* ex parte Regis quod de Jure Coronæ Regiæ *Auxilium* Domino Regi fieri debuit in casu prædicto; ac etiam quod *expense* multiplices & alia quam plura *onera* eidem Domino Regi incumbent, ad *rebellionem* & *maliciam Roberti* de *Brus Proditoris* ipsius Domini Regis & sibi in partibus *Scotiæ* adherentium qui adversus ipsum Regem jam in illis partibus guerram movere præsumpserunt reprimendas. A

* Idem *Prelati*, *Comites*, *Barones*, & alii *Magnates*, necnon *Milites Comitatuum tractatum* super hoc cum deliberatione habentes considerantesq; *auxilium* deberi ut prædictum est, & quam plura *onera Regi* incumbere propter *guerram* prædictam tandem *unanimiter* Domino Regi *Concesserunt pro se* & *tota Communitate* Regni *Tricesimam partem* omnium bonorum suorum temporalium mobilium quæ ipsos habere contingit in festo Sancti Michaelis proximo futuro habendam pro auxilio eidem Domino Regi competente ad *Miliciam* filii sui prædicti ac etiam in *Auxilium Misarum* quas ipse est facturus circa *guerram* prædictam. Ita tamen quod ista *concessio* ipsis vel eorum successoribus aut hæredibus futuris temporibus nullatenus *cedat* in *præjudicium*, nec in casu hujusmodi trahatur in exemplum & quod in taxando bona prædicta excipiantur omnia que in taxatione Quintedecime a Communitate Regni Domino R. Anno Regni suo xviii. concesse propter exilium Judeorum fuerunt excepta. B C

* *Cives* quidem & *Burgenses* Civitatum ac Burgorum, ac *cæteri* de *Dominicis* Reg. *congregati* & super premissis *tractatum habentes* considerantesq; *onera* Domino Regi *inmumbentia* ut præmittitur eidem Domino Regi *unanimiter* concesserunt ob *causas* supradictas *vicesimam partem* bonorum suorum mobilium habendum ut prædictum est.

* *Note, the Prelates, Earls, Barons, and other Great Men, and also the Knights of the Shire, (which were then Doubtlesse, Tenents in Capite, and represented the Tenents in Capite or Community in every County) under that notion consulted and treated with the Earls, Prelates, Barons, and other Great Men, and granted for themselves and the whole Community of the Kingdom, a Thirtieth part of their Goods.*

* *Note in these times the Citizens and Burgesses were not reputed, or taken to be part of the Community of the Kingdom; Nor were the Tenents of the Kings Demesnes, for these treated and consulted by themselves, and gave a different Sum, which was a Twentieth part, viz. a Third part more than the others, which was in those days usual.*

Pat.

Pat. 48. H. 3. M. 6. *Dorſ.*

HEc eſt forma pacis a Domino Rege & Domino Edwardo filio ſuo Prelatis & Proceribus omnibus cum *Communitate totâ* Regni Anglie communiter & concorditer approbata videlicet quod quedam ordinatio facta in Parliamento Londini habito circa feſtum Nativitatis beati Johannis Baptiſte proximo preteritum pro pace Regni conſervanda quouſq; pax inter dictum Dominum Regem & *Barones* apud *Lewes* per formam cujuſdam mitè prelocuta compleretur duratura omnibus diebus predicti Domini Regis & etiam temporibus Domini Edwardi poſtquam in Regem fuerit aſſumptus uſq; ad terminum quem ex tunc duxerit moderandum firma maneat ſtabilis & inconcuſſa. Dicta autem Ordinatio talis eſt. Record 5.

This

This is the Preamble of the Form cited in the next Record.

Carta 49. H. 3. M. 5.

Forma pacis inter Regem & Barones.

Record *6.*

COmé Munſeur Edward einez finz noſtre Seignor le Rois de Angleterre e munſeur Henr. finz le Rois de Alemaine par la volunte noſtre Seignor le Rois e la lour ſe fuſent mis *oſtages* deſcre la pes de Engleterre feuſt bien afermee e aſſeuree: accorde eſt pur la pes de la terre meinteuir e pur la deliverance deſauantditz munſeur Edward e de munſeur Henr. entre noſtre Seignor le Roy e eus e les *Barons* de la tere qe le *ordenement* qe fu purueu a Londre par comun acorde des *prelaz* e des *hauz homes* de la tere qe la furent en *mois* de *Jun* lan noſtre Seignor le Rois *xlvtime* ſoit fermement garde e meintenu en la forme qe il eſtoit purueu qe eſt icele.* Ad reformationem ſtatus Regni eligantur ſeu nominentur *tres* diſcreti viri & fideles de regno qui habeant poteſtatem & auctoritatem a Domino Rege eligendi ſeu nominandi vice Domini Regis Conſiliarios *novem* de quibus *novem*, tres ad minus alternatim ſeu viciſſim ſemper in Curia ſint preſentes & Dominus Rex de conſilio eorundem novem ordinet & diſponat de Cuſtodia Caſtrorum & aliis omnibus regni negociis. Preficiat etiam Dominus Rex per *Conſilium* eorundem *novem Juſticiarium*, *Cancellarium*, *Theſaurarium*, & alios *officiales* majores & minores in hiis que ſpectant ad regimen *Curie* & *regni*. Jurabunt autem *primi electores* ſeu nominatores quod ſecundum conſcientiam ſuam eligent ſeu nominabunt Conſiliarios quos credent honori dei & eccleſie, regi & regno utiles & fideles. Conſiliarii quoq; & omnes officiales majores & minores in ſua creatione jurabunt quod officia ſua pro poſſe ſuo ad honorem Dei & eccleſie & ad utilitatem regis & regni abſq; munere preter eſculenta & poculenta que communiter in menſis preſentari ſolent fideliter exequentur. Et ſi predicti Conſiliarii vel aliqui eorum in adminiſtratione ſibi commiſſa male verſati vel verſatus fuerit vel fuerint vel ſint ex alia cauſa mutandi vel mutandus, tunc Dominus Rex per *Conſilium* predictorum *trium* nominatorum ſeu electorum quos vel quem amovendos viderit amoveat & loco eorum vel ejus qui amotus fuerit per eoſdem, alios vel alium fidelem & idoneum ſubroget & ſubſtituat. Si autem officiales majores vel minores in officiis ſuis male verſentur Dominus Rex per Conſilium dictorum *novem* ipſos amoveat & alios ſeu alium ſine dilatione per conſilium predictorum loco illorum vel ejus ſubſtituat. Et ſi primi tres electores ſeu nominatores in electione vel nominatione Conſiliariorum aut alicujus conſiliarii, aut forte Conſiliarii in Creatione officialium vel aliis negotiis Domini Regis & regni gerendis ſeu diſponendis diſcordes fuerint quod a duabus partibus concorditer factum vel ordinatum fuerit firmiter obſervetur, dummodo de illis duabus partibus *unus* ſit *Prelatus* Eccleſie in negotiis Eccleſiam contingentibus. Et ſi contingat duas partes dictorum *novem* in aliquo negotio non eſſe concordes, de diſcordia illa ſtabitur ordinationi primorum trium electorum ſeu nominatorum aut majoris partis eorundem. Et ſi videatur

* Pat. 48. H. 3. M. 6. Dorſ. *Here wants the Preamble which is noted above, Record* 5.

deatur *Communitati* prelatorum & Baronum concorditer expedire quod aliqui vel aliquis loco aliquorum vel alicujus *primorum trium* nominatorum ſeu electorum ſubrogentur vel ſubrogetur aut ſubſtituatur Dominus Rex per conſilium *Communitatis* prelatorum & Baronum alium vel alios ſubſtituat. Omnia autem predicta Dominus Rex faciet per conſilium predictorum *novem* in forma ſubſcripta vel ipſi vice & auctoritate Domini Regis, preſente ordinatione duratura donec *miſa* apud Lewes facta eſt & poſtea a partibus ſigillata concorditer fuerit adimpleta vel alia forma proviſa, quam partes concorditer duxerint approbandam. In cujus rei teſtimonium Domini R. Lincolnienſis & Hugo Elienſis Epiſcopi, R. Comitatus Norfolcie & Mareſcallus Anglie, R. de Veer Comes Oxonienſis, Humfridus de Bohun, Willielmus de Monte Canis *Major* London Signa ſua huic ſcripto appoſuerunt. Datum in *Parliamento* London *menſe Junii* anno Domini MCCLXIV. E qe ceſt ordenement ſoit mieuz garde noſtre Seignior le Roi doit comaunder e enjoindre e munſeur Edward aſſentir e requere as *hauz homes* e au *comun* de la tere par lur lettres overtes qe demorrent en cheſcun Conte qe ceſt ordenement fermement tengent. Eſtre ceo acorde eſt qe noſtre Seignior le Roi, ne Munſir Edward, le Conte de Leyc. ne le Conte de Glouc. ne leur aliez ne les genz de Londres, ou des Cinkporz ne nul qe eit eſte de lur partie, * en queuq; liu ou de queuque liu qe il ſoient, ne aſcheſeveront, ne greveront par acheſon des choſes qe eient eſte fetes eu tens de troublee eu de la guere qe adeſtee ne a eus domage ne ferent ne procuront ne ſoferont a fere par leur balifs. E ſi noſtre Seignor le Roi ou Munſir Edward vole venir en contre la pes, ele ordenement avantdit, ou les Contes de Leyc. ou de Glouc. ou nul de lur partie grever par acheſon des choſes avantdites qe les *hauz homes* e le *comun* de la tere ſoient contre eus pur eus grever a tot leur poeer, ne ne lur ſoient obeiſant de rien, en facent tot anſi com il ne leur fuſent de rien tenuz deſqe ces choſes ſoient amendees e a dreſtees e maintenues ſolum la forme del ordenement e de la pes avantditz. Sanne ceo qe qant les choſes ſerront amendees e a dreſtees ſi com il eſt de ſuzdit, qe touz lur ſoient obeiſaunt e tenu com devant. E noſtre Seignor le Roi e munſir Edward unt jure ſur les ſeintes Ewangelis e les *hauz homes* e le *comun* de la tere jurront par commaundement noſtre Seignor le Roi e par laſſentement e la requeſte munſir Edward e par leur lettres overtes qe noſtre Seignor le Roi e munſir Edward e tuz les *hauz homes* de qi len les vodra aver endeiront ices choſes a fere e a tenir ſi com il eſt avandit, E ſi iſſint eſtoit qe acun alaſt en contre ceſt ſerement ou aidaſt al Roi ou a munſir Edward ou a autre contre ces choſes deſus eſcritees e de ceo ſoit atteint, par agard du conſeil noſtre Seignor le Roy e des *hauz homes* de la tere ſoi pris ou banni du reaume de Engletere e deſheritez lui e ſes heirs a remanaunt, e de lur teres ſoit fet ſolom les lois e les uſages de la tere, auſi come des teres a ceux qe ſont ateint de felonie. E *ceſte choſe eſt fermement eſtabli par le Roi e munſir Edward e par le comun de la tere*, e de ceo eit em lettres overtes de tuz ceus qe unt eſte ſuſpetenus en contre ceſte boſoine qe il otreient qe iſſint ſoit fet ſi il venent en contre en nul point. E eſtre ceo les granz Chartres des communes franchiſes e des foreſtes qe ont pluſore foiz eſte otreies e eſcomenge tuz iceus qe en contre vendroient e les Articles qe eſtoient deſpeca porueues par acord noſtre Seignor le Roie des

* In quocunque loco, vel de quocunque loco.

hauz homes de la tere les queus noſtre Seignor le Roi ne ad geres qant il eſtoit a *Wireceſtr.* envoia par toz les *Contees* de ſouz ſun *ſeel* ſoient fermement tenuz e ceo unt jurre noſtre Seignor le Roi e munſir Edward e tuz les Juſtices Viſcontes e Bailifs de la tere e les Bailifs noſtre Seignor le Roi e de munſir Edward e tuz autres a qi qe il ſoient feront meimes le ſerement Iſſi qe nul ne lur ſoit tenu a obeer devant ceo qe il eient feſt ceſt ſerement. E ſi nul venie encontre ſoit grevement puni par agard de la *Cure* le Roi. Sauue les privileges a clers ſi com il apent. E pur ceo qe noſtre Seignor le Roi devant la batale de Lewes avoit defie plosurs. de ſes bone gent de ſa tere e mis hors de ſa foi, e eus par leur bone volentee le vollent reconuſtre derichef com Seignor, accorde eſt qe tuz iceus qe eſtoient de ſon homage e eſtoient diffiez lui facent homage de novel ſolom le uſage de la tere. Sauue ceo e eſpreſement, excepe qe ſil veut venir contre les choſes deſuſdites, qe leu ne lui ſoit de rien tenu parieſt homage. Deſqe les choſes ſoient amendees, e a dreſtees ſi com il eſt de ſuſdit. E ceus qe a feirte lui furent tenuz e furent defies deuant lavantdite bataille ſi lui referont feaute de novel en meimes la manere qe il eſt dit des homages. Derechef Munſir Edward avera ſa meſnee e ſes conſailers de genz de la tere qe ne ſoient mie ſuſpecenus, e ceo par acord dil avantdit conſaile noſtre Seignor le Roi, e ſi il autrement le face qe il en corge le peine deſuzdite, qe tuz ceus de la tere ſoient contre lui pur lui grever a tot leur poeer ſi com il eſt diſt des articles deſuzditz. E ſi nul demoraſt en ſon ſeruiſe ſaunz lur acord, ſoit grevement puny par lagard de meimes ceu conſail noſtre Seignor le Roi. Derechef qe noſtre Seignor le Roi ne Munſir Edward ne a treent mie genz aliens en la tere ſi ce ne ſoit par acord du conſail le Roi e des auteres *prodes homes* de la tere derechef qe munſir Edward pur la pes de la tere meeuz afermer de murge en Engletere e nomement la ou le bref le Roy curt en le tere ſaunz iſſir deſqe la paſqe qe vent en trois aunz ſi ceo ne ſoit par acord des prelaz e des *hauz homes* de la tere e de lavandit conſeil noſtre Seignor le Roi. E ſi mis aliens vengent deſorenavant en la tere ſaunz acord del avantdit conſail noſtre Seignor le Roi e des autres *prodes homes* de la tere qe il lur ſoit apertement muſaunt e ſi iſſint ne la face ou ſi il is fors de Angletere e nomement de la ou le bref le Roi curt en Engletere ſaunz le acord du conſail e des *prodes homes* deſuſdiz, qe totes ſes teres Seignories dignitez e honeurs qe il ad ou aver porra par nun de heritage, ou en autre maniere ſoient encorues e qe il e ſes heirs ſoient deſheritees deſavantdites choſes a tuz jurs. Iſſi qe en celes teres ne en autres choſes deſuſdites ne puiſe chalenger nule manere de droit del ore qe il vendra apertement contre ſa promeſſe avantdite. Derechef pur ceſte choſe meuz garder les *chaſteus* noſtre Seignor le Roy e de munſir Edward qe ſunt en meinz de gent ſoſpecenus, en queque lui qe iceus Chaſteus ſoient, ſoient baillez par acord de la avantdit conſail noſtre Seignor le Roy a autres qe bien e learment les gardent a leus noſtre Seignor le Roy e de munſir Edward e a ſanuate de la tere. Eſtre ceo noſtre Seignor le Roi e Munſir Edward feront ces choſes avantdites aſſeurer ſi com leu purra meuz deviſer par Irelond par Gaſcoigne par le Roi de Eſchoce e par totes les teres ſugeites au Roi de Engletere. Eſtre ceo noſtre Seignor le Roi e Munſir Edward unt promis e jure qe il aideront a porſuire le apeus qe ſont fet par les prelaz Contes e Barons e le *comune* de la

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tere

tere de certeins gresſ qe ſeet, lur ſont e a defendre la tere e la pes de la tere contre toz iceus qe mire ou male ou damage querre la vodront e a grever a tut leur poer tuz iceus qe encontre la pes de la tere ſe tendront. Eſtre ceo Munſire Edward en promptera de noſtre Seignor le Roi Cink de ſes chaſteus des queus les prodes homes de la tere ſe tendront a paez les queus ibandraen *oſtage* pur lui deſq
A à Cink ans qe il tendra les choſes deſuſditees Oſſi qe le Roi ne Munſir Edward in entrerens dedenz ceu tens E ceo jurront par comandement le Roi les Gardeins qe iſſeront mis E ſoit purueu renable ſuſtenaunce des deners le Roi as Gardeins de ces chaſteus par quoi ils puſent eſtre ſauuement garde deſqan terme avantdit. E ſil aveniſt qe eus les leſſaſent encoure ſi enface lem ceo qe ſemblera a fere par la agard del avantdit conſeil noſtre Seignor le Roi e des prelaz e des *hauz homes* de la tere e au definement du terme avantdit ſi la pes
B ſoit bien garde, ices Cink chaſteus ſoient baillez par lavantdit conſeil noſtre Seignor le Roi a bone gent qe bien e leaument les gardent a leus noſtre Seignor le Roy e de ces heirs e a ſavuete de la tere. Eſtre ceo noſtre Seignor le Roi e Munſire Edward e les *hauz homes* e le *comun* de la tere ſe ſont mis en la juriſdiction des prelaz e oterie qe il eſcomengent tuz iceus qe contra les choſes deſuſdites ou la pes de la tere vendront ou mettront poine de venir E unt renuncie noſtre Seignor le Roi e Munſire Edward e tuz communoument a totes maneres de privileges porchaciez ou apurchacer. E qe du ſer-
C ment avantdit abſolucion ne purchacerent ne procurǫnt ne purchace par autre ne receveront ne uſeront meſqe le Apoſtoile lenvoiaſt par ſa auctorite demaine. Eſtre ceo acorde eſt qe ſauue totes les choſes deſus eſcrites tuz les autres ordenemenz e articles qe furont purveu devant ceſt ore par le Roi e ſon conſail e les *hauz homes* de la tere les queus ſont al honeur de deu e de ſeinte Egliſe a la foi le Roi e au pru du reaume ſoient fermement tenuz. E totes les avant-
D dites choſes leaument a fere e a tenir unt jure noſtre Seignur le Roi e munſir Edward ſon finz ſus les Seintes ewangel. Eſtre ce munſir Edward vaudra al Conte de Leyceſtr. en fie le chaſtel de Ceſtre e la vile, e la Contee oue totes les apertenaunces e le Nefchaſtel ſur Lime oue les apartenances e le chaſtel du pek oue les apartenances ſi com il les tint e tenir deuſt ſanz nul retenement pur autres teres qe le Conte lui baudra en fie a la value des teres qil tient dautrepart, e des autres teres qe le Conte tient en Engletere en divers lius linfra la value au plus pres du Conte de Ceſtre qil poet. E a baille
E munſeur Edward al avantdit Conte le Chaſtel de Briſtend oue la vile e les apartenances a tenir en ſa meine en tenance deſqe ces choſes ſoient feſes Iſſi qil reſpoine des renables iſſeues ſauue ceo qil mettra renablement en lagarde e en la ſoſtenaunce du chaſtel. E ceſte choſe ſe doit fere denz un an. E ſi les choſes ſoient ſetes entre Munſir Edward e le Conte de deuz ceu tens le Conte rendra a Munſir Edward le Chaſtell e la vile oue les apartenance e a donk baudra munſir Edward le chaſtel en oſtage par acord du conſeil le Roi e des
F bone gent de la tere deſqa a cinck anz en meimes la forme com il eſt dit des autrees cink caſteus qil enprompte du Roi. Sauue Cheſcun droit e nomement le Chaleng le Conte de Glouceſtr. en droit du chaſtel de Breſtead e la vile oue les apartenances. iſſi qe par le reiſon del hoſtage ne ſoit le Conte de Glouceſtr. aloine ne deſtorbe de ſa droiture quant al en vodra parler. En teumoine de ces choſes noſtre Seignor le Roi e munſir Edward ſun finz munſir Henri finz

The Earl of Leiceſter *gets the Caſtle and County of* Cheſter, *&c. from the Kings Son.*

le

le Roi de Alemaine e aleur requeſte en groinor teumain les honorables peres par la grace dieu Henry de Londr, Wauter de Wireceſtr. Joan de Winceſtr. Robert de Durem, Hug de Ely, Gaut de Saresbir. Roger de Coventr. e de Lichefeud, Eſteuene de Ciceſtr. Wauter de Ba. Guilliam de Landaf Eveſques, frere Roger de Veer Prior de Hoſpital de Jeruſalem en Engletere, frere Ambolard Meſtre de la Cheivalerie du Temple en Engletere le Maire e la Comun de Londres unt mis lur ſeaus a ceſt eſcrit qe fu ſet ottreie e acorde en la forme deſuſdite a Weſtmon. au parlement de Londres le utime jur de mois de marc. lan del incarnacion noſtre Seignor MCCLX quart. ceſt aſaver le Mecredy la veile ſeint Gregor. lan del Incarnation deſuſdit.

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Pat. 35 E. 1. *m.* 45.

De 30ma & 20ma assidendis in Comitatu Middlesex.

Record 7.

REx Militibus liberis hominibus et toti Communitati Comitatus Middlesex tam infra libertates quam extra, Salutem. Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, liberi homines ac *Communitates* Comitatuum regni nostri *triceſimam* omnium bonorum suorum temporalium mobilium *Civesq;* et *Burgenses* ac *Communitates* omnium *Civitatum*, et *Burgorum* ejusdem regni, necnon Tenentes de *Dominicis* nostris *viceſimam* bonorum suorum mobilium Exceptis hiis que alias in hujusmodi concessione subsidii excipi consueverunt, nobis curialiter concesserint et gratanter, per quod nos nuper ut viceſima et triceſima predicte ad minus dampnum et gravamen populi dicti regni nostri leventur et colligantur providere volentes assignavimus dilectos et fideles nostros Richardum de Windesore et Simonem de Kensington vel alterum eorum quotiens ambo insimul interesse non possent una cum quodam Clerico quem ad hoc duxissent eligendum et pro quo respondere voluissent ad triceſimam et viceſimam predictas in Comitatu predicto tam infra libertates quam extra assidendas et taxandas juxta formam ipsis inde ex parte nostra liberatam et ad pecuniam de predictis triceſima et viceſima provenientem colligendam et levandam et ad Scacarium nostrum certis terminis liberandam, videlicet, in crastino Purificationis Beate Marie proximo futuro et in Octabis Sancte Trinitatis proximo sequentibus et similiter in crastino Animarum ex hinc proximo sequenti pro equalibus portionibus sine dilatione ulteriori. Ac idem Simon quibusdam de causis ad premissa facienda et explenda intendere non possit loco ejusdem Simonis assignavimus dilectum et fidelem nostrum Willielmum de Pountz ad omnia premissa una cum prefato Richardo facienda et explenda in forma predicta. Et ideo vobis mandamus quod prefato Willielmo loco predicti Simonis in premissis omnibus et singulis sitis intendentes et respondentes consulentes et auxiliantes in forma predicta et prout ipse vobis scire faciet ex parte nostra. In cujus, &c. Teste Rege apud Lavertoft primo die Decembris.

Per ipsum Regem.

Fi-

Fines 20. E. 3. *m.* 7.

De auxilio ad primogenitum filium Regis Militem faciendum levando.

Record 8.

REx dilectis et fidelibus ſuis Vicecomiti Wygornie Thome le Botilten de Upton ſuper Sabrinam Militi et Thome Caſſy de Wynch Salutem. Sciatis quod cum in *pleno parliamento* noſtro apud Weſtmonaſterium ad diem Lune proximo poſt feſtum Nativitatis Beate Marie Virginis proximo preteritum tento Prelati Comites Barones et ceteri Magnates de regno noſtro Anglie tam abſentes extra idem regnum nobiſcum exiſtentes per ſuas litteras in eodem Parliamento lectas et in rotulo ejuſdem parliamenti irrotulatas quam preſentes in eodem parliamento viva voce concorditer pro ſe et tota *Communitate* ejuſdem regni nobis conceſſerint quadraginta ſolidos de ſingulis *feodis Militum* in dicto regno noſtro Anglie in auxilium ad primogenitum filium noſtrum Militem faciendum levandos ſicut hujuſmodi auxilium alias in caſu conſimili progenitoribus noſtris conceſſum levari conſuevit. Aſſignavimus vos et duos veſtrorum ad predictum auxilium quadraginta ſolidorum de ſingulis feodis Militum et juxta ratam quadraginta ſolidorum de partibus feodorum hujuſmodi infra Comitatum predictum infra libertates et extra tam de feodis que de nobis tenentur quam de aliis quibuſcumq; ad opus noſtrum levandum et colligendum. Ita quod omnes denarios de auxilio predicto provenientes habeatis ad Scacarium noſtrum in Quindena Sancti Hillarii proximo futura illi vel illis cui vel quibus eoſdem denarios liberari mandaverimus liberandos. Et ideo vobis mandamus quod habita deliberatione plenaria ſuper *feodis* et *partibus feodorum* predictis in Comitatu predicto infra libertates et extra tam per rotulos de conſimili auxilio tempore Domini Edwardi quondam Regis Anglie Avi noſtri de hujuſmodi feodis levato quos ad majorem evidentiam de *feodis* et partibus *feodorum* predictis habendam vobis mittimus ſub pede ſigilli noſtri quam per Inquiſitiones inde diſtincte et aperte quociens opus fuerit capiendas et aliis viis et modis legitimis quibus pro acceleratione premiſſorum vobis videbitur expedire ad auxilium predictum in dicto Comitatu levandum et colligendum &c. In cujus, &c. Teſte Cuſtode apud Turrim London primo die Novembris

Per ipſum Regem ac Cuſtodem et Conſilium.

Clauſ.

Clauſ. 7. H. 3. M. 10. *Dorſ.*

Brevia Summonitionum.

A

VIcecomiti Canc' Salutem. Precipimus tibi quod ſine dilatione ſummoneri facias per totam Ballivam tuam *Archiepiſcopos Epiſcopos Abbates Priores Comites Barones Milites* et *libere tenentes* et *omnes alios* qui *ſervitium* nobis debent ſive *ſervitium Militare* vel *Serjantie* quodq; ſimiliter clamari facias per totam baillivam quod ſint apud *Wigorniam* in craſtino Sancte Trinitatis anno regni noſtri ſeptimo, omni dilatione & occaſione poſtpoſitis cum toto hujuſmodi *ſervitio* quod nobis debent, parati cum *equis* & *Armis* ad eundem in *ſervitium* noſtrum quo eis preceperimus. T. H. &c. apud Weſtmonaſterium 25 die Maii. Record 9.

B

Eodem modo Scribitur omnibus Vicecomitibus Anglie.

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Poſtea mutata fuit hec forma in hanc formam.

Forma vic'.
Record 10.

REx Vicecomiti *Bedd'* & *Bucks* Salutem. Quia ſummonitionem factam *Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus* et aliis quide nobis *tenent in Capite* per *ſervicium Militare* vel *Serjantie* veniendi in *ſervitium* noſtrum cum *equis* & *Armis* apud *Wigorniam* in craſtino Sancte Trinitatis prolongavimus de Conſilio *fidelium* noſtrorum uſq; in quindecim dies a die Nativitatis Sancti Johannis Baptiſte anno regni noſtri ſeptimo. Tibi Precipimus quatinus eos omnes per totam *Baillivam* tuam ſine dilatione ſummoneri facias & clamari quod omni dilatione & occaſione poſtpoſitis ſint ad nos cum *equis* & *Armis* ſicut prius ſummoniti fuerunt. Teſte Rege apud Weſtmonaſterium 26° die Maii.

Clauſ. 49. H. 3. M. 4. Dorſ.
Record 11.

This Writ was all Dictated by Montfort.

REX Johanni Eynill Salutem, &c. Setting forth that Prince *Edward* had made his eſcape on Thurſday in *Whitſun-week* in the evening from his Guard with two Knights and four Eſquires or Scutifers which with him had contrived his Eſcape, and was gone to *John de Warren* and *William de Valentia*, who without the Kings privity and Will (as is here ſaid) joyned themſelves with certain * Rebell-Barons Marchers in *Pembrokeſhire*, where they intended to joyn with Strangers from beyond Sea. That he ſhould upon ſight of theſe Letters come to the King *cum Equis & Armis* & *toto ſervitio & poſſe ſuo, omni feſtinatione, Die & Nocte*, to go againſt the Kings enemies as he loved his own life. *T. R. apud Hereford.* 30 *die Maii.*

* *So he was forced to call his beſt Subjects, when he was* Montforts *priſoner.*

Eodem modo ſcribitur omnibus *tenentibus in Capite*, tam *Epiſcopis Abbatibus, Prioribus, quam Comitibus, Baronibus, Militibus, & omnibus aliis, exceptis illis*, qui ſunt pro *parte Comitis Gloceſtriæ.*

Rot.

Clauſ. 4. Hen. 3. m. 5. Dorſ.

REX vicecomiti Northamtonie Salutem. Scias quod pro magna neceſſitate noſtra & ingentiſſima debitorum noſtrorum inſtantia nec non & pro conſervatione terre noſtre Pictavienſis conceſſerunt nobis ſui gratia communiter omnes *Magnates* & *fideles* totius regni noſtri donum nobis faciendum ſcilicet de qualiber caruca ſicut juncta fuit Craſtino beati Johannis Baptiſte proximo preterito anno regni noſtri quarto *duos ſolidos* per manum tuam & duorum de legalioribus Militibus Comitatus tui colligendos qui de voluntate & conſilio *omnium* de *Comitatu* in pleno Comitatu eligentur ad hoc faciendum. Et ideo tibi precipimus firmiter & diſtricte injungentes quatinus convocato Comitatu tuo pleno de voluntate & Conſilio eorum de Comitatu eligi facias duos de legalioribus Militibus totius Comitatus, qui melius ſciant velint & poſſint huic negotio ad commodum noſtrum intendere. Et illis tecum aſſumptis ſtatim donum illud per totam Baillivam tuam facias aſſideri & colligi de ſingulis carucis ſicut predictum eſt. Exceptis Dominicis *Archiepiſcoporum Epiſcoporum* & *Ruſticorum ſuorum* & exceptis *Dominicis* ordinis Ciſtercenſis & de Premuſtr. Et videas quod diſtricte & aperte ſcias nobis reſpondere in Craſtino Sancti Michaelis proximo inſtantis apud Londinum, quot fuerint in Balliva tua Caruce de quibus donum illud habere debeamus. Et Denarios inde provenientes per manus predictorum duorum Militum & tuam ſalvo colligi facias venire uſq; Londoniam predicto die ſub ſigillo tuo & ſigillis predictorum duorum Militum in Domo Novi Témpli ſalvo reponi donec proviſum fuerit quid fieri debeat. Et tu ſicut teipſum & omnia tua diligis ſic inde te intromittas ne occaſione malefacte inquiſitionis & Collectionis per te & predictos Milites ſicut oporteas nos poſtea diſtrictam facere inquiſitionem per fideles a Curia noſtra miſſos ad gravem Confuſionem tuam & illorum qui tecum interfuerint predicte Inquiſitioni & Collectioni faciende. Teſte Henrico, &c. apud Oxonium 9 die Auguſti. Record 12.

Eodem modo ſcribitur omnibus vicecomitibus Anglie.

Pat. 15. H. 3 *m.* 3.

De Immunitate Prelatorum Angl.

Record 13.

REX omnibus &c. Salutem. Cum peteremus a *Prelatis* Anglie quod nobis auxilium facerent pro magna neceſſitate noſtra de qua eis conſtabat, videlicet, *Epiſcopis*, *Abbatibus*, *Abbatiſſis*, *Prioribus*, & *Prioriſſis* qui de nobis *tenent* in *Capite* ipſi nobis liberaliter conceſſerunt *auxilium* tale ſcilicet de ſingulis feodis Militum ſuorum 40 *s.* de tot feodis de quot ipſi tenentur nobis reſpondere quando faciunt nobis *ſervicium Militare*. Et nos *conceſſimus* eiſdem *Prelatis* quod ad predictum *auxilium* nobis faciendum habeant de ſingulis feodis Militum quæ de eis tenentur 40 *s.* Nos igitur nolentes quod ex hac eorum conceſſione nobis facta de mera liberalitate ſua & non alia ratione Eccleſiis ſuis vel eis vel eorum Succeſſoribus poſſit prejudicium aliquod gravari vel Eccleſiaſtice libertati in aliquo derogari, per has literas noſtras Patentes hoc duximus proteſtandum. Nolumus etiam quod propter hanc proteſtationem noſtram quam fecimus aliquid nobis vel heredibus noſtris accreſcat vel decreſcat. In cujus, &c. T. R. apud Weſtmonaſterium 14 die Aprilis, Anno regni noſtri 15. Has literas habeant ſinguli Prelati tam Epiſcopi quam Abbates Priores Abbiſſe & Prioriſſe.

A B C D E F

Clauſ.

Clauſ. 19. H. 3. *M.* 6. *Dorſo.*

A REX vicecomiti Somerſet Salutem. Scias quod *Comites* & *Barones*, & *omnes alii* de toto regno noſtro Angliæ, ſpontanea voluntate ſua, & ſine Conſuet. Conceſſerunt nobis Efficax *Auxilium* ad magna negotia noſtra expedienda. Unde proviſum eſt de Conſilio illorum quod habeamus de ſingulis Feodis Militum que de nobis *tenent* in *Capite* & de *Wardis*, tam de *novo Feoffamento* quam de *veteri*, *duas Marcas* ad *Auxilium* prædictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad feſtum Sancti Michaelis Anno decimo nono, & aliam Medietatem ad Paſcha, anno &c. 20. B Providerunt etiam, quod prædictum *Scutagium* colligatur per Manus Ballivorum ſuorum in ſingulis Comitatibus, & tradatur per Manus eorundem, Duobus *Militibus*, Quos ad hoc aſſignavimus in ſingulis Comitatibus deferend. ad Scaccarium noſtrum Lond. ad liberand. ibidem Theſaurario & Camerariis noſtris, & ideo tibi Precipimus quod ad mandatum omnium Comitatum & Baronum & omnium aliorum, Qui de nobis *tenent* in *Capite* in Balliva predicta modo predicto ſine Dilatione Diſtringas omnes *Milites* & *Libere Tenentes* qui C de eis Tenent per *Servicium Militare* in Balliva tua ad reddendum Ballivis ſuis de ſingulis *Feodis* & *Wardis* duas Marcas ad predictum *Auxilium* nobis faciendum in Terminis prædictis, & liberandum Johanni de Aure, & Hen. de Meriet quos ad hoc aſſignavimus in Comitatu tuo ſicut prædictum eſt, &c. Teſte Meipſo apud Weſtmonaſterium xvii Julii, Anno, &c. XIX. D

Record 14.

E

F

Clauſ. 19. H. 3. M. 8. Dorſ.

ccord 15.

REX Vicecomiti Suſſex Salutem. Scias quod *Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites, Barones,* & *omnes alii* de Regno noſtro Angliæ, qui de nobis *Tenent* in *Capite* Spontanea voluntate ſua & ſine Coſuetudine conceſſerunt nobis efficax *Auxilium* ad magna negotia noſtra expedienda. Unde proviſum eſt de conſilio illorum, Quod habeamus de ſingulis *feodis* Militum & Wardis, que de nobis Tenent in Capite *duas Marcas*, ad predictum Auxilium nobis faciendum, & unde providerint reddere nobis unam Medietatem ante Feſtum Sancti Michaelis, Anno Regni noſtri 19. & aliam Medietatem ad Paſche Anno Regni noſtri 20. Ideo tibi precipimus quod ad mandatum venerabilis Patris R. Ciceſtrenſis Epiſcopi Cancellarii noſtri ſine Dilatione Diſtringas omnes *Milites* & *libere Tenentes*, qui de eo *Tenent* per *Servitium Militare* in Balliva tua ad reddendum ei de ſingulis *feodis* & *Wardis* duas Marcas ad predictum *Auxilium* nobis per manum ſuam reddendum in Terminis prædictis.

Sic Scribitur pro aliis *Epiſcopis, Abbatibus, Prioribus,* & *Magnatibus.*

Pat. 9 Hen. 3. M. 7. Dorſo.

Record 16.

REX Willielmo Baſſet Radulpho de Crumbwell Willielmo de *Vernun*, Thome Tuſchet, Henrico de Derlegham Canonico Suwell, & Roberto de Lee *Clericis*, Salutem. Aſſignavimus vos *Juſticarios* noſtros ad *quintam decimam* omnium mobilium aſſidendam & Colligendam ad opus noſtrum in Comitatibus Notingham & Dereby in hac forma. Vicecomes noſter Notingham & Dereby coram vobis venire faciet *omnes Milites* Comitatuum ſuorum die Dominica proximo ante mediam Quadrageſimam apud Notingham ad quem diem eligi facietis quatuor legales Milites de ſingulis Hundredis vel Wapentacis vel plures vel pauciores ſecundum magnitudinem Hundredorum vel Wapentaciorum ituros per ſingulos hundredos vel Wapentachas ad aſſidendam & colligendam quintam decimam omnium mobilium predictorum, &c.

Rot.

Rot. Clauſ. 7. H. 3. M. 23. dorſo.

REx Vicomiti Kanciæ Salutem. Scias quod exigente neceſſitate terre Sancte de novo proviſum eſt & conceſſum coram nobis & conſilio noſtro preſentibus Archiepiſcopo Cantuarienſi, Epiſcopis, Comitibus, Baronibus, & Magnatibus noſtris, de communi omnium voluntate quod quilibet *comes* conferat Domino Regi Jeruſalem in auxilium terre predicte iii marcas *Baro* i marcam *Miles* xii denarios quilibet terram excolens i. denarium & quilibet qui terram non habet Catalla habens ad Valentiam dimidiæ marcæ tam infra Civitates & Burgos quam exta Similiter i denarium & quicunq; de predictis plus dare voluerit det in nomine Domini exceptis omnibus illis qui ſolummodo de domibus religionis vel perſonis Eccleſiaſticis tenent. Debet autem hec collecta aſſideri in qualibet villa infra feſtum beati Thome Apoſtoli Anno &c. Septimo per duos probos & legales homines & *ſervientem* ejuſdem *ville* vel *ſervientes* ſi *plures* fuerint *Domini* in *eadem villa* & colligi infra feſtum Sancti Hillarii anno eodem per eoſdem & reponi per ſingulos Comites in domo Templi vel Hoſpitii ſi in Comitatu illo domus Templi non fuerit de qualibet villa in Sacco per ſe cum ſumma ejuſdem pecunie ſcripta intus in eodem Sacco & exterius ſuper Saccum Sigillatum cum nomine ejuſdem ville debet etiam deferri Londoniam infra xv. dies a feſto Sancti Hillarii anno predicto per Templar. vel Hoſpital. Domus ubi fuerit repoſita & Vicecomes ejuſdem Comitatus dabit auxilium & ſalvum conductum ad predictam pecuniam deferendam uſq; London que ibi reponetur in domo novi Templi per viſum illorum quos Magnates noſtri ad hoc aſſignaverunt ut poſſint ſcire quid & quantum de terra cujuſlibet exierit & ſummam auxilii totius regni noſtri. Et ideo tibi precipimus quatinus collectam illam in Balliva tua aſſideri colligi & conduci facias uſq; London ſicut predictum eſt & ita diligenter te intromittas quod negotium illud pro defectu tui non remaneat infectum Set potius diligentiam ex hoc multipliciter habeamus commendatam. Debet etiam hec collecta Civitatum & Burgorum in Balliva tua fieri infra quod eis ſcribimus & reponi in domibus religionis quas alias eis fecimus nominari per literas noſtras ad quam deferendam uſq; London facias auxilium & conductum ſicut facere debes ad illam quam alibi per Comitatum tuum colligi facias & ſi neceſſe fuerit ad denarios illos aſſidendos & colligendos diſtrictiones facias ſicut videris expedire ad hoc preceptum noſtrum predicto modo complendum. Teſte H. &c. apud Weſtmonaſterium viceſimo quarto die Novembris.

Record 17.

Eodem modo ſcribitur omnibus Vicecomitibus Anglie.

Rot.

The Declaration, Ordinance, or Statute of the Succeſſion to the Crown of Scotland, *made at* Scone *on the 4th of* April, *in the third Year of King* Robert *the Second,* Anno Dom. 1373.

Record 18.

IN Dei nomine Amen Anno ab Incarnatione ejuſdem Mileſimo trecenteſimo ſeptuageſimo tertio et Regni Regis Roberti Secundi Anno tertio, Menſis Aprilis die Quarto, præfatus Rex Robertus Secundus in Parliamento ſuo apud Sconam, Ac cupiens incertitudinem Succeſſionis in pleriſq; * Regnis, et * partibus contingentem retroactis Temporibus vitare pro poſſe, Et ei pro *ſe* et *ſuis* maxime futuris temporibus obviare, Ex Deliberato Conſilio et cum Conſenſu et aſſenſu *Prelatorum Comitum* & *Baronum*, Ceterorumq; *Procerum* & *Nobilium*, ac omnium Aliorum, De *tribus ſtatibus* ſive *Comunitatibus* totius Regni Congregatorum ibidem, *Declaravit*, *Ordinavit* & *Statuit*, Quod filii ipſius Regis ex *ſua prima* & *Secunda Uxoribus* nunc geniti, et eorum heredes, ſucceſſive ſuccedent ipſi Regi in Regnum, et in Jus regnandi per modum infra Scriptum, et ſub forma, et Conditionibus infra Scriptis. Videlicet Quod Dominus *Johannes* primogenitus ipſius Regis Comes de Carricke ac Seneſchallus Scotiæ pro cujus ſucceſſionis Jure in Parliamento immediate præcedenti plene fuerat Declaratum et heredes ſui poſt mortem ipſius ſibi in regnum, et in Jus Regnandi ſuccedent, Ac ipſis Domino *Johane* et heredibus Deficientibus forſitan, Quod abſit, Dominus *Robertus* Comes de *Fife*, et de *Monteith* filius ipſius Domini Regis ex *prima Uxore* ſecundogenitus et hæredes ſui in Regnum et in Jus Regnandi ſucceſſive et immediate ſuccedent, et ipſis Domino *Roberto*, et hæredibus ſuis hujuſmodi, Deficientibus etiam fortaſſe, quod abſit, Dominus *Alexander* Dominus de *Badenoch* filius ipſius Domini Regis ex *eadem uxore* tertio Genitus, et heredes ſui tantum in Regnum, et in jus Regnandi, poſt mortem ipſorum ſimili modo ſucceſſive et immediate ſuccedent Ipſis vero Domino *Alexandro* et heredibus ſuis præfatis, ſimiliter forſitan Quod abſit, Deficientibus, Dominus *David* Comes de *Strathern* filius ipſius Domini Regis ex *ſecunda uxore* genitus, et hæredes ſui eiſdem ſic Deficientibus, Ex toto integrum et in jus Regnandi ſimiliter ſucceſſive et immediate ſuccedent; Ipſo vero *David* et hæredibus ſuis predictis ſimiliter forte Deficientibus, *Walterus* filius ipſius Domini Regis frater germanus ipſius Domini *David* et hæredes ipſius in Regnum et in Jus Regni ſimili modo ſuccedent. Prædictis autem quinq; fratribus et eorum hæredibus ab ipſis Deſcendentibus Deficientibus forſitan ſimiliter et ex toto, Quod abſit, *veri* et *legitimi hæredes* de ſanguine et parentela Regali, Ex tunc in Regnum et in Jus Regnandi ſuccedent. Quibus ſic *Statutis*, *Ordinatis*, *Declaratis*, et *actis*, omnes *Prelati Comites* et *Barones* ac omnes de *tribus ſtatibus* ſive *Comunitatibus* totius Regni in

* *They are the words of the Tranſcript.*

in ipſo parliamento ibidem propter hæc et Alia Congregati, *prefatas Declarationem, Ordinationem,* & *Statutum*, Ratificaverunt et approbaverunt pro ſe et ſuis hæredibus perpetuis et futuris temporibus Duraturis. Et Nihilominus infraſcripti videlicet *prælati* Domini Willielmus Sancti Andreæ, Michael Dunkelden; Alexander Aberdonen; Patricius Brechanen: Alexander Muravien: Andreas Dumblanen: Alexander Roſſen: et Malcolmus Catenen: Eccleſiarum Epiſcopi præſentibus, et Apertis ſacroſanctis Dei Evangeliis, ac infra-ſcripti *Comites, Barones* et *Nobiles*, Primo videlicet ipſi filii Regis ſeniores, et provectæ ætatis Domini, Scilt *Johanes Robertus, Alexander,* necnon Dominus Willielmus de Douglaſſe Georgius de Dunbar Marchiæ, Johanes de Dunbar Moraviæ, *Comites* Thomas de Haya *Conſtabularius* Scotiæ, Dominus Willielmus de Keith Mareſcallus Scotiæ, Jacobus de Lindſey, Dominus de Crawford, Archibaldus de Douglas Dominus Galvidiæ, Jacobus Douglas Dominus de Dalkeith, Robertus de Erskine, Hugo de Eglintonne, Duncanus de Wallays, David de Graham, Walterus de Halyburtonne Willielmus de Diſhingtoune, Alanus de Erskin, Alanus de Jacobus de Frazer, Alexander Frazer, Robertus *Senechallus* de Innermaith, Rogerus de Mortuo Mari, David filius Walteri, Patricius de Grahame, Andreas de Vallibus, Johanes Wallays, Johanes Maxwell, Andreas Campbell, Willielmus de Cunningham filius, et Johanes Strachawhm *Milites, Johanes* Kennedy, et Alexander de Cockburn, *Scutiferi,* eiſdem ſacroſanctis Evangeliis, et eorum quilibet manu-tactis Corporaliter Juraverunt, Quod prefatas *Declarationes*, Ordinationes, et Satuta pro ſe et pro eorum hæredibus inviolabiliter Obſervabunt et ab aliis pro viribus perpetuo facient obſervari. Conſequenter vero et immediate, Tota Multitudine *Cleri* & *Populi* in Eccleſia de Scona ante Magnum Altare propter hoc ſpecialiter Convocata, Ac prefata Declaratione, Ordinatione, et Statuto ſic Juratis alta et publica Voce, eis Expoſitis, Quilibet levata Manu per Modum fidei-Dationis in Signum univerſalis Conſenſus Totius *Cleri* & *populi* exprimebat et manifeſtabat publicè ſuum conſenſum pariter et Aſſenſum. In Quorum omnium Teſtimonium prefatus Dominus Rex preſenti Scripto ſive Inſtrumento, ſuum magnum precepit apponi Sigillum, et Ad majorem Evidentiam, et Securitatem pleniorem, Omnes *Epiſcopi, Comites, Barones*, & *Nobiles* ſupradicti eidem Inſtrumento ſua Sigilla fecerunt apponi, Gratia Teſtimonii et ad perpetuam memoriam futurorum: Acta fuerunt Hæc apud Sconam in pleno Parliamento Domini Regis, predictis Anno, Menſe, et Die ſuperius annotatis.

The Three Eſtates mentioned in this Act of Parliament, were the Biſhops, and Clergy firſt, the Earls and Barons, comprehending all the Barons great and ſmall, were the ſecond Eſtate, and they all ſate together as Tenents *in Capite*, and as the Commiſſioners for Shires ſit with the Barons at this Day for the ſame reaſon. But then there were no Commiſſioners, and all the ſmall Barons came in their own Perſons. The Third Eſtate was the *Burgeſſes*, of the King's *Burghs*, which held of him *in Capite.*

In

Statut. Rob. 2. f. 59. a.

Ibid. f. 62, b.

In the Statutes made at *Scone* in the ſecond year of this King *Robert* the Second, the ſecond of *May*, 1372. Theſe three Eſtates and no others, *c.* 17. ℘ 3, 4. ſwear to obſerve the Laws then made, and to own *John* Earl of *Carrick* (afterwards King *Robert* the Third) in his Lieutenancy, and as Governor of the Kingdom under his Father. *Omnes & ſinguli* Prelati, Prelatorum *procuratores, & alii de* Clero; Comites, Barones, *&* Burgenſes, *Juramenta ſua Tactis Eu-angeliis, perſonaliter preſtiterunt*, &c. here were no Commiſſioners for Shires, they came in afterwards to Repreſent the ſmall Barons by a Law made in the ſeventh Parliament of King *James* the Firſt, *A. D.* 1420, about Fifty years afterwards. See Anſwer to Mr. *Petyt*, f. 96, 97, 98, 99, 100. And further, that the Burghs make the Third Eſtate; See Preſent State of *Scotland*, p. 77, 78.

A Series

A *ſeries* of *Parlements* and great *Councils* in the time of the *Saxons* before the Conqueſt, and ſuch as were holden in *Normandy* before, and after that time, and alſo of ſuch as were holden in *England* unto the end of the Reign of *Hen.* 3d.

Saxon Councils.

Add theſe to the Saxon Councils mentioned in the Anſwer to Mr. *Petyt* f. 8 D. & f. 9.

Anno Dominicæ Incarnationis 822 *de diverſis Saxoniæ partibus congregatum eſt* Synodale concilium *in loco præclaro qui nominatur* Cloveſho *præſidente huic venerabili Concilio* Beornulpho *Rege Mercio: & Wulfredo* Archiepiſcopo *cæteriſq;* Epiſcopis & Abbatibus, *omniumq; dignitatum* optimatibus *dignitatum* Eccleſiaſticarum *ſcilicet &* ſecularium *perſonarum.* Spelm. Concil. vol. 1. f. 332. cap. 1. A. D. 822.

Anno Dominicæ Incarnationis 838. *Congregatum eſt* Concilium *in loco famoſo nomine* Kingſton *præſidente eodem Concilio* Egberto *Rege & filio ejus* Athelwulpho; *Ceolnotho quoq;* Archiepiſcopo *cum cæteris* Epiſcopis *Angliæ &* Optimatibus. Ibid. fol. 340. A. D. 838.

King *Edgar* granted his *Charter* of Priviledges to *Glaſtonbury* Abby, *communi Conſilio* omnium Primatum ſuorum and in the cloſe of that Charter tis ſaid *hanc Privilegii paginam Rex* Edgarus *apud* Lundoniam *communi Conſilio* Optimatum *confirmavit.* Monaſt. Angl. vol. 1. fol. 17. col. 1. n. 10. 40. A. D. 971.

Conſilio juſſuq; Regis Anglorum Æthelredi, Procerumq; ſuorum *de tota Anglia Robuſtiores Lundon. Congregatæ ſunt Naves,* &c. Flor. Wigorn. A. D. 992.

Æthelredus Procerumq; ſuorum Conſilio *ad Danos legatos miſit, promittens* tributum & ſtipendium *ut a ſua Crudelitate omnino deſiſterent, de tota vero Anglia* Tributum *quod erat* 16000*l. dependebatur.* Ibid. A. D. 994.

Rex Æthelredus ſuorum primatum *Concilio, &* Claſſem & pedeſtrem *congregavit* exercitum. Ibid. A. D. 999.

Rex Anglorum Æthelredus *habito* Conſilio *cum* Regni *ſui* Primatibus, *utile duxit a Danis dextras accipere, illiſq; ut a malis ceſſarent,* ſtipendium *dare &* placabile Tributum *ſolvere nec diu poſt* 24000*l. illis perſolvebantur.* Ibid. A. D. 1002.

Rex Anglorum Æthelredus *Conſilio* Primatum ſuorum *nuncios ad Danos legans eis nunciare mandavit, quod* ſumptus & Tributum *eo tenore illis dare vellet ut a* Rapinis *deſiſterent &* Pacem *cum eo firmam tenerent, & de tota Anglia* Tributum *quod erat* 36000*l. perſolvebatur.* Ibid. A. D. 1007.

Æthelredus Rex Anglorum de 310 caſſatis *unam Triremem, de* novem loricam *et* caſſidem *fieri per totam Angliam naves intente præcepit fabricari.* Ibid. A. D. 1008.

Rex Anglorum Æthelredus, & Regni ſui Primates *ad Danos miſerunt legatos, pacem ab eis petentes,* ſtipendium & Tributum *promittentes.* Ibid. A. D. 1011.

Ibid. A. D. 1012.

Omnes Angliæ Primates utriusq; ordinis *ante Paſcha Lundon.* Congregati *ſunt, & ibi tam diu morati ſunt, Quouſq;* Tributum *Danis promiſſum quod erat* 48000*l. perſolveretur.*

Be Witena Gerædneſſan. Sapientum Decreta.

A

Spelman. Concil vol. 1. Concil Ænhamen. General. f. 513. Temp. Ethelredi Regis. This Council was holden between the year of our Lord 1006 & 1013. Ibid. f. 510. Ibid. f. 525. in the old Latin verſion.

Hæ ſunt conſtitutiones quas tulerunt Angli eruditi eligerunt etiam & edixerunt inſtanter docuerunt obſervandas.

This is *Spelmans* Latin verſion, the Angli eruditi the Learned Engliſh and the Saxon Witen are explained and diſcovered what they were.

B

Æthelredi Edicto concrepante Archipræſulumq; *Ælfeatis & Wulſtani hortatu inſtigante* univerſi *Anglorum* Optimates, *die Sancto Pentecoſtes, ad locum ab Indigenis* Eanham *nominatum acciti ſunt convenire.* In ſeveral periods in the * Firſt Chapter according to Sir *Hen. Spelmans* verſion there are theſe words, Decernunt Sapientes, and in c. 5. 6. 7. They made here many ſecular Laws about Obſervation of the Laws and Peace and Concord. *c.* 5. Of the Correction and amending falſe Money, of making a Standard for Weights and Meaſures. For Repairing of Towns, Bridges and Caſtles. *c.* 22. Naval Laws. *c.* 23. Of ſuch as withdrew themſelves from the Army. *c.* 23. Of Treaſon. *c.* 26. That the greateſt Men that offended ſhould be puniſhed more grievouſly. c. 32 Therefore this is a Compleat Parliament of thoſe times.

C

* Ibid. f. 513. Witena Geredneſſe is: i. e. Sapientes Decernunt: or the Decree of the Wiſemen is, &c.

Lamb. Archaionom: f. 150. II E. 35. Tit. Lex Nor. &c. Hoved. f. 347. a. n. 20. A. D. 1016. Flor. Wigorn. Anno eodem. f. 618.

Speaking of the Diviſion of the Kingdom between *Edmund Ironſide*, and *Canutus*, tis ſaid, *firmata igitur taliter univerſis Angliæ* Primatibus *aſſenſum præbentibus, inter ſe conventione, primo poſt menſe Edmundus ex hac luce ſubtrahitur.*

D

Poſt mortem Edmundi, *Rex* Canutus, omnes Epiſcopos & Duces *nec non &* Principes cunctoſq; Optimates *gentis Angliæ Lundoniæ congregari juſſit, Qui cum veniſſent ante eum, quaſi neſciens interrogavit eos ſagaciſſime Qui fuerunt teſtes inter eum & Edmundum, quando Conventionem amicitiæ & Diviſionem Regni inter ipſos geſſerunt*, &c.

E

Monaſt. Angl. vol. 1. f. 295. Col. 1. n. 30. Ex Regiſtro Johannis Lakingheath iſtius loci Monachi.

Anno Domini 1024 *Canutus Rex Angliæ cum* Conſilio & Decreto Archiepiſcoporum, Epiſcoporum *et* Optimatum ſuorum *expulit Clericos inhoneſte viventes ab Eccleſia Sancti Edmundi, et Monachos in illa conſtituit.*

Monaſt Angl. vol. 1. f. 287. from Cart. 8. Ed. 2. M. 5. n. 11. per. Inſpeximus. vid. Cart. 7. & 8. Ric. 2. n. 11.

Ego Cnut Rex totius Albionis cum Conſilio Archiepiſcoporum, Epiſcoporum, Abbatum, Comitum, *omniumque aliorum meorum* [*] Fidelium *elegi ſanciendum, ut Monaſterium de Badriceſworde*, &c. in a Charter of Priviledges to *Bury* Abby which was ſo called.

F

[*] Theſe could not be all his Subjects but only his *Thegns* and *feudal* Nobility he here calls *fideles.* This is called *plenum Parliamentum Dominorum Spiritualium & Temporalium* without mention of *Comons* or any other Perſons. Ibid. f. 290. Col. 2. n. 10. from the Regiſt. of the ſame Abby. f. 214.

Anno

Anno 1081, *finitis* placitis, calumniis, *et* Queremoniis, *quas* Arfaſtus *Epiſcopus, faciebat* Baldwino *Abbati, de Eccleſia Sancti Edmundi,* &c. *die pridie Kal. Junii Apud Wintoniam coram* Rege & Principibus *Terræ dedit Rex Willielmus Glorioſo Regi & Martyri Eadmundo hoc privilegium.*

Ibid. f. 288. n. 50. *A. D.* 1081.

A And in this Priviledge it is recited that *Cnute, cum* Communi Conſilio Archiepiſcoporum, Epiſcoporum, & Optimatum ſuorum, (which explains the word *fideles*) did eject the diſorderly Prieſts out of *Bury* Abby, and place Monks there.

Ibid. f. 289. n. 10. 20.

Then after this he ſays, that after hearing both ſides in this great Council and Court, *Placuit nobis Conſilio* Archiepiſcoporum, Epiſcoporum *aliorumq; multorum nobis* * fidelium, to Grant and Confirm, *&c.* Here fideles, are the ſame with Principes mentioned in the preamble to this Priviledge. Which hath the ſame Date with the Preamble.

B

Data pridie Kal. Junii, 1081. *Actum Wintoniæ.*

C

D

E

F

Ibid. n. 40. 50. The Judges acknowledg this a Parliament in the year Book, Titles Contempt 21. Ed. 3. f. 60. n. 7.

* That theſe *fideles* were *Earls* and *Barons* ſee the year Book in Temps de W. Conqueror a ſon Parlement, a cert jour tenu, fut ordone par le Roy & par le *Arch Eveſque*, de Canturb. & *par tous* les *autres eveſques* de la terre & *Counts Barons* que a quel heure de cel &c. Ibid. ‖ Ibid. Col. 2. n. 40.

Norman Councils holden in *Normandy*.

Neuſtria pia f. 2 0. Anno Dom. 996.

Dux inclytus Richardus ſenio fatigatus, dum ingraveſcente moleſtia extremam imminere cognoſceret horam, Ducatus ſui *cunctis congregatis* Proceribus, *Richardum filium ſuum vocavit, rerumq; ſuarum omnium* hæredem & Succeſſorem *conſtituit.* A

Ibid. f. 214.

Richardus ſecundus totius Normanniæ Epiſcopos *et* viros Nobiles *feſtinus Fiſcannium Convocavit et Fiſcannenſem Sanctæ Trinitatis Eccleſiam ab omni Epiſcoporum Jugo et conſuetudine juſta vel injuſta eripuit et liberavit.*

Grand. Cuſtom. f. 1. a proœmio primo. B

The Cuſtumary of *Normandy* written or Eſtabliſhed, *par le Conſeol* des Prelates *et* des Barons *et* des aultres ſaiges *homes.*

f. 2. b. Col. 1.

In the Comment on the ſecond Prologue, *la couſtume fut compile a une* fois par le Duc, par les Countes, Barons, *et* Prelates, &c.

Ibid. Col. 2

Et auſi met le text que les Princes *de* Normendie *les loix et Eſtablisments Eſtablirent par le* Conſeil *des* Contes Barons Prelates, &c. *par quoi il appert clerement quils nen ſont pas* faceurs, *mais* Counſellors *ſeulement.* C

Grand. Cuſtum C. 113. De brief Deſtablie.

The Duke of *Normandy* having Juriſdiction over the Body's of great and ſmall, becauſe bound to him by *Fealty* and *Allegiance*, willing to reſtrain the *Malice* of the *mighty* and *puiſſant*, Eſtabliſhed two Laws of Recognition by advice of his Prelats and Barons, *par le* Conſeil *des* Prelates *et* Barons.

Monaſt. Angl. vol. 2. f. 960. col 1. n. 60. col. 2. n. 20. Circa A. D. 1042. *Ibid. Col. 1. lin. 4. D

Ego Aluredus Gigas in præſentia Domini mei Willielmi Comitis, ac omnium Procerum *ejus, dedi Deo et S. Vigori,* &c. which Duke *William* confirms in theſe words, *Ego Willermus Normannorum Dux, mea auctoritate coram* Epiſcopis *et* Baronibus meis *confirmo,* &c. This was a *Norman* great *Council* or *Parliament*, and was about the year * 1042.

Neuſtria pia. f. 168. A. D. 1074. E

William the Conqueror made Peace and Concord between the Monaſtery of St. *Wandril*, and the Earl of *Eureux*, *cum* Conſilio Principum *ſuorum.*

Ord. Vit. f. 552. A. Anno Domini 1080. F

Anno Domini 1080 *Rex Gulielmus in Feſto Pentecoſtes apud Illebonam reſedit ibiq;* Gulielmum Archiepiſcopum, *et omnes* Epiſcopos, *et* Abbates Comiteſq; *cum alijs* Proceribus *Normanniæ ſimul adeſſe præcepit; ut Rex juſſit factum eſt igitur celebre Concilium apud Jullam-bonam celebratum eſt; et de ſtatu Eccleſiæ Dei totiuſq; Regni, providente Rege cum* Baronum *ſuorum* Concilio *utiliter tractatum eſt, annotantur Concilij ſtatuta ut poſteri diſcant, quales fuerunt leges in Normannia ſub Gulielmo Rege.*

Ibid. fol. 822. A. Anno D. 1106.

In medio Octobris Rex Luxovium venit cunctos Optimates *Neuſtriæ convocavit, et utiliſſimum Eccleſiæ Dei Concilium tenuit ibi ſtatuit Regali*

gali Sanctione ut firma pax per omnes teneatur fines Normanniæ Judicioq; Sapientum irrita fecit, quæ frater suus Ingratis permiserat per imprudentiam.

The *Sapientes* were Lawyers and the Judgment was according to the *Fendal* Law, for by Ingratitude Fees were certainly lost.

Note this Council it was soon after the Battle of *Tenerchbray*, nothing here of introducing the English Laws.

A

Anno Domini 1107 *Rex Henricus* Proceres *suos convocavit et Robertum de Monte forti*, Placitis *de violata* * *fide propulsavit, unde Idem quia reum se sensit, licentiam eundi Jerusalem accepit, totamq; terram suam Regi reliquit.*

Ibid. f. 823. C. A. D. 1107.

* This was also a *Fendal* Action and Tryal for Breach of Faith, which was Ingratitude.

Mense Januario Falesiæ consessio Procerum *coram Rege fuit.*

Ibid. f. 831. D. Anno. eodem.

B

Mense Martio Idem Rex Concilium *apud Luxovium tenuit, et necessaria Subjectis Plebibus Edicta, ex* consultu Magnatorum *provide Sanxit.*

Ibid. f. 831. 832. Anno eodem.

Nonis Octobris Concilium *Rotomagi congregatum est, ibi Rex Henricus de pace Regni tractavit cum* Radulpho *Cantuariæ* Archiepiscopo, *alijsq;* Baronibus *quos aggregaverat.* At this Council were all the *Bishops* and great *Abbats* of *Normandy.*

Ibid. f. 846. B. C. A. D. 1118.

C

Robert Duke of *Normandy* sent his *Envoys* to *Canute* to receive into *England Edward* and *Alured* Cousin Germans, the two Banished Sons of his Aunt *Emme* they returned without effect, at which the *Duke* being very Angry, *Convocatis Ducatus sui* Principibus, jussit magnam navium Classem fabricari, Quam *ex omnibus Normannici maris partibus coactam, et infra* exigui *temporis Spatium in Anchoris, Armis, hominibusq; Robustissimis diligenter instructam stare apud* Fiscannum *in littore Ponti fecit.*

Gemet. Lib. vi. c. 10. Canutus Reg. nare incepit A. D. 1117 Desijt A. D. 1135.

D

This certainly was a *Parliament*, or great *Council* of *Normandy* which he called, to consult about making War with *Knute*, and providing Ships and men accordingly.

Henry the 2. When he heard King *Stephan* was dead, *Convocatis fratribus suis* Galfrido *et* Willielmo *et* Episcopis *et* Optimatibus *Normanniæ, venit Barbe fluvium.*

Chron. Normam. Ibid. A. D. 1153. f. 990. C.

E

Mense Julio Henricus Rex Anglorum congregavit omnes Episcopos *Normanniæ, et* Abbates *et* Barones *apud* Novum Mercatum, *et Ludovicus Rex Francorum adunavit suos* Belvais, *et ibi tractatum est de Receptione Papæ Alexandri, et Refutatione victoris, et consenserunt Alexandro Refutato victore.*

Ibid. f. 997. A. B. A. D. 1159. Tempore Hen. 2.

1161. *Prima Dominica Quadragesimæ Rex Hen. congregavit* Episcopos, Abbates, Barones *totius* Normanniæ, *apud* Rothomagum, *et Querimoniam faciens de* Episcopis *et eorum* ministris, *et* vicecomitibus *suis, jussit ut* Concilium *Juliæ-bonæ teneretur.*

Ibid. f. 998. A. Anno D. 1161. Tempore Hen. 2.

F

See *Hoveden Anno Domini* 1189, *Richard* the First called a Council or Parliament of the same Persons in *Normandy*, That year.

1. Ric. 1.

English

Engliſh great Councils or Parliaments.

Sim. Dunelm. Col. 203. lin. 4. *A. D.* 1070. 4 Willielmi primi.

AT *Pededra* the Controverſie between *Wulſtan* Biſhop of *Worceſter*, and *Thomas* Arch-Biſhop of *York*, *in Concilio celebrato coram* Regę, *ac Doroberniæ* Archiepiſcopo *Lanfranco, et* Epiſcopis, Abbatibus, Comitibus, *et* Primatibus *totius Angliæ terminata eſt.* This by *Selden* is acknowledged a Parliament. A

Monaſt. vol. 1. f. 244. *A. D.* 1084. Gul. primi 18.

In a Charter of King *William* the Firſt, for changing the Canons of *Durham* into Monks. *Hæc Carta confirmata eſt apud Weſtmonaſterium in* Concilio *meo Anno Regni* 18. *Præſentibus* omnibus Epiſcopis *et* Baronibus *meis.* B

Eadm. Hiſt. lib. 1. f. 26. l. 2 & n. 10. *A. D.* 1093. 6 Gul. 2.

Anſelmus *igitur, Salva ratione ſua, quam de Subjectione et obedientia Romanæ Eccleſiæ in medium tulerat, petivit inducias ad iſtius rei examinationem quatenus* Epiſcopis, Abbatibus, *cunctisq; Regni* Principibus *una coeuntibus communi aſſenſu definiretur, utrum Salvâ reverentiâ et obedientiâ ſedis Apoſtolicæ poſſet fidem terreno* Regi *ſervare, annon. Dantur ergo inducię, atq; ex regia Sanctione ferme* totius regni Nobilitas *quinto Id. Martij pro ventilatione iſtius cauſæ in unum apud Rochingheham coit.* C

Ibid lib. 2. f. 38. lin. 6. *A. D.* 1096. 9. Gul 2.

Inſequenti autem menſe Auguſto cum de ſtatu Regni acturus Rex Epiſcopos, Abbates, *et quoſq; Regni* Proceres, *in unum Præcepti ſui ſanctione egiſſet,* &c.

Eadm. f. 62. n. 10. *A. D.* 1101. 2. Hen. 1.

Epiſcopis *Terræq;* Principibus *Wintoniæ ſub uno Coactis.* D

Ibid. f. 65. n. 10. *A. D.* 1101 2. Hen. 1.

Rex adunatis Lundoniæ Principibus *Regni.*

Ibid. f. 67. n. 10. 20 *A. D.* 1102. feſto Sancti Mich. 3. Hen. 1.

Annuente Rege celebratum eſt Concilium *communi aſſenſu* Epiſcoporum, Abbatum, *et* Principum *totius regni,* and theſe altogether are there called Primates *Regni* utriuſq; ordinis.

Flor. Wigorn. f. 641. *A. D.* 1102. See Hovd. f. 269. an. 30. 3. Hen. 1.

In feſtivitate Sancti Michaelis Rex fuit apud Weſtmonaſterium, & cum eo omnes Principes *Regni ſui,* Eccleſiaſtici & Secularis ordinis, *ubi* Anſelmus *tenuit magnum Concilium, i. e. præſidebat.* E

Eadm. f. 70. n. 20. *A. D.* 1102. 3 Hen. 1.

In the Controverſie about Inveſtitures, King *Henry* the 1ſt. ſpake to Arch-Biſhop *Anſelm* privately to have gone to *Rome* to have inclined the Pope to an amicable compoſure in the Controverſie about Inveſtitures. He thus anſwered the King. *Differantur hæc ſi placet uſq; in Paſcha ut audito* Epiſcoporum *regniq;* Primatum Conſilio, *qui modo non aſſunt, Reſpondeam hinc. Igitur in Paſcha Curiam venit, Regni* * Ingenuitatem *de negotio præſens conſuluit, communis Conſilii vocem unam accepit, æquum ſcilicit fore illum Tantæ rei gratia viæ laborem debere non ſubterfugere.* F

*Leſt, Nobilitatem.

Adunatis autem ad Curiam Regis in Paſcha Terræ Principibus.

This

This Council was twice Prorogued, and when it met *Calend. Auguſti* 'tis called

Conventus Epiſcoporum Abbatum *et* Procerum *Regni in palatio Regis Lundoniæ.*

A Of this very Council *Eadmer* in the Life of *Anſelm* ſays,

Adunatis in palatio Regis Londini cunctis Primoribus *Angliæ.*

And of this Council *Eadmer* ſays, *Anſelm* demanded ſubjection of *Gerard* Arch-Biſhop of *York*,

B *Coram* Rege, *Regniq;* Epiſcopis *atq;* Principibus.

Adunatis ad curiam ſuam in Solennitate Pentecoſtes cunctis Majoribus *Regni unde Anſelmus & Thomas Eboracenſis Electus & omnes alii Angliæ* Epiſcopi *ſtatuerunt in præſentia Regis aſſenſu omnium* Baronum *ſuorum, ut,* &c.

Rex Henricus tenuit Curiam ſuam in feſtivitate Pentecoſtes apud Londinum cum Epiſcopis *&* regni Principibus. C *Cœpit agere quid eſſet agendum.*

In ſubſequenti Nativitate Domini Regnum *Angliæ ad* Curiam *Regis Lundoniæ pro more convenit, et magna Solennitas habita eſt et ſublimis.*

Epiſcopos *et* Principes *Angliæ in unum apud Windeſhoram venire fecit,* to chooſe an Arch-Biſhop inſtead of *Anſelm.* 'Tis ſaid of this Meeting which was *Kalend. Maii* 1114, *nuper adunato Conventu* totius D Anglici Regni, &c. and what this *Conventus totius Regni* was we are told in the ſame Epiſtle. *Huic Electioni affuerunt* Epiſcopi, Abbates *et* Principes *regni, et ingens* populi *multitudo.* The ordinary people came to ſhout and make a noiſe at ſuch meetings, and for good Victuals and Drink.

Eodem Anno Rex juſſit omnes Epiſcopos *et* Principes *totius Regni ad curiam ſuam ſub uno venire apud Weſtmonaſterium.* E

13 *Kalend. Aprilis factus eſt Conventus* Epiſcoporum, Abbatum *et* Principum *totius Regni apud* Sarisberiam *cogente eos illuc Sanctione Regis.*

Conventus Optimatum *&* Baronum *totius Angliæ apud* Saresbiriam 14 *Kalend. Aprilis factus eſt.*

F Comites *&* Barones *totius Angliæ apud* Salesberiam *convenerunt Cal. Aprilis.*

Epiſcopi Abbates *et* Nobiles *quiq; Lundoniæ adunati ſunt præſente Reginâ, communi* Conſilio *Tractaturi.*

Rex legalis Conjugii nexu olim ſolutus, ne quid ulterius inhoneſtum committeret, Conſilio *Radulphi* Archiepiſcopi, *et* Principum *Regni*

Ibid. f. 90. n. 30 A. D. 1107.
4 Several ways of expreſſing the ſame great Council by the ſame perſon. 1ſt. to Whitſunday. Ibid. n. 40. 50. then to the 1. of Auguſt. 8. Hen. 1.
Ibid f. 91. n. 20. Eadmer in vita Anſelm. Lib. 2. f. 30. Colon. 1573. Hiſt. f. 91. n. 40. Eadm. f. 94. n. 50. A. D. 1108.
Ibid. f. 95. lin. 1. 9. Hen. 1.
Ibid. f. 102. n. 50. A. D. 1109. 10. Hen. 1.
Ibid. f. 105. lin. 3. circa. Annum Domini 1109.
Ibid. f. 109. n. 30.
A. D. 1114.
Ibid. f. 110. n. 20. 30.
Ibid. f. 111. n. 50.
Ibid. f. 112. lin. 4. 14. Hen. 1.
Ibid. f. 114. n. 30. A. D. 1114. 16. *Septembris.*
Ibid. f. 117. n. 30. A. D. 1115. 15. Hen. 1.
Flor. Wigorn. f. 657. A. D. 1116. 16. Hen. 1.
Hoved. f. 271. b. lin. 8.
Eadm. f. 118. n. 20. A. D. 1116. Menſe Auguſti. 17. Hen. 1.

Ibid. f. 136. n. 20. Contin. ad Flor. f. 659. A. D. 1121. the same words 22. Hen. 1. Garvas. Dorobern. col. 1662. n. 30. A. D. 1122. 23. Hen. 1.

ni Quos omnes *in Epiphania Domini sub uno Lundoniæ* congregavit *decrevit sibi in uxorem*, &c.

F. 669 lin. 7. A. D. 1123. begin the year at Christmas. 23. Hen. 1.

2 *Febr. factus est* Conventus **Episcoporum Abbatum** *ac* **Procerum** *ex præcepto Regis apud* Gloceſtriam *pro substituendo Pontifice loco defuncti.*

This Council thus expreſſed by the Continuer of *Florent. Wigorn.* A

Malmsb. f. 92. b. n. 40.

Vir eximiæ Religionis Willielmus Canonicus sanctæ Osgithæ de Cice ad Archiepiscopatum Cantuariensem Glawornia, ubi in Purificatione Beatæ Mariæ Rex *tenuit Curiam suam eligitur.*

Coacto apud Lundoniam magno **Episcoporum Procerum** *et* **Abbatum** Consilio, *multa ecclesiasticarum et secularium rerum ordinata Negotia decisa litigia.* B

Ricard. Hagulstad. col. 314. n. 10. A. D. 1136. 1. Stephani.

Stephanus in Regno confirmatus, **Episcopos** *et* **Proceres** *sui Regni regali edicto in unum convenire præcepit : cum quibus generale Concilium celebravit.*

Flor. Wigorn. f. 668. A. D. 1138. 3. Stephani.

Rex Anglorum Stephanus in Octabis Paschæ Quod erat quarto Idus Aprilis tenuit Concilium *Northamptoniæ cui præsidebat Turstinus Eboracensis* **Archiepiscopus, Episcopi, Abbates, Comites, Barones Mobiles** *quique per Angliam.* C

Hen. Hunt. f. 226. b. lin. 3. A. D. 1151. 16. Stephani.

Anno 16 *Regis Stephani, Tedbaldus Cantuariensis* **Archiepiscopus,** *et Apostolicæ sedis legatus, tenuit* Concilium generale *apud Lundoniam, ubi Stephanus Rex et filius suus* Eustachius, *et Angliæ* **Proceres** *interfuerunt.*

Chron. Norm. A. D. 1152. 17. Stephani.

Upon agreement of King *Stephen*, and *Henry* Duke of *Normandy* Rex *primo recognovit in Conventu* **Episcoporum, Comitum,** *et* **aliorum Optimatum** *hæreditarium Jus Henrici*, &c. D

Joh. Bromton. col. 1080. n. 50. ultimo. Steph. A. D. 1154.

Stephanus Rex in festo Sancti Michaelis cum **Episcopis** *et* **Optimatibus** *terræ Concilium tam pro* Regni negotio, *quam provisione Ecclesiæ Eboracensis*, &c. *Lundoniæ celebravit.*

Glanv. Lib. 13. 13. c. 32. Tempore Hen. 2. Hen. 2. began his Reign. Tempore Hen. 2. A. D. 1154.

Cum quis Itaque infra Assisam Domini Regis, i. e. infra Tempus a Domino Rege de Consilio **Procerum** *ad hoc constitutum.* About making a Law for Establishing the Tryal and Recognition of Novel Disseisin. E

Ibid. Lib. 2 c. 7. Temp. Henrici Secundi. Anno Domini. 1164. 10. Hen. 2.

Est autem magna assisa Regale quoddam Beneficium clementia **Principis** *de* Consilio **Procerum** *populis indultum.*

The Council at *Clarendon* about *Beckets* affair. F

Gervas. Dorobern. col. 1385. n. 60. 10. Hen. 2. Quadrilog. Lib. 1. c. 26.

Congregati sunt **Præsules** *et* **Proceres** *Anglicani Regni apud Clarendoniam in festivitate Sancti Hillarij.*

Rex apud Clarendune **Regnum** *convocat* **universum** *Quo cum venissent* **Præsules** *et* **Proceres**, *exegit Rex instantius ut sibe promissa solverentur*, &c.

Apud

Apud Clarendunam coram Rege & Magnatibus *facta eſt Recordatio Regiarum Libertatum et Conſuetudinum. Cui qui Thomas Cantuarienſis Archiepiſcopus*, &c. Mat. Weſtmon. f. 248. n. 50. A. D. 116[illegible].

Convocatur Concilium generale *apud Clarendonam Rex proponit*, &c. *Convocato* Clero *et* populo *apud Clarendon.* Fits. Steph. p. 20.

A *Anno Dommini* 1164. 10 *Henrici Secundi in præſentia Regis apud Clarendon.* 8. *Calend. Febr. præſidente Johanne de Oxonia de mandato ipſius Regis, præſentibus etiam* Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, *et* Proceribus *Regni, facta eſt Recognitio*, &c. Hoved. f. 282. b. n. 10. Mat. Paris. f. 100. n. 20.

Ex mandato Regis, concurrentibus Epiſcopis *et* Proceribus, *apud Clarendune* 8. *Kalend. Febr.* 1164. *poſt immenſos Tractatus*, &c. Rad. de Diceto. col. 536. n. 50.

The Council at *Northampton* the year following. Note, all theſe old Monks begin the year at Chriſtmaſs.

Anno Gratiæ 116[illegible]. *qui erat Annus undecimus Hen. Secundi, idem Rex*

B magnum *congregavit* Concilium *apud Northampton.* Hoved. f. 283. a. lin. 7. 10. vel. 11. Hen. 2. Ben. Abbas. p. 21.

Rex poſtmodum aliud generale *edicit* Concilium *apud Northampton locum deſignans*, &c. Rad. de Diceto. col. 537. n. 10.

Convenerunt Epiſcopi, Comites, Barones, totius Regni, *mandato Regis urgente apud Northampton* 3. *Idus Octob.* 116[illegible]. Gerv Dorobbern. col. 1389. n. 30.

Rex Angliæ præcepit Præſules *et* Proceres *regni apud Northamptoniam una cum ipſo* Archiepiſcopo *convenire.* Quadrilog. Lib. 1. c. 30.

Præter Tempus, locus etiam determinatur, nobile, videlicet, illud Regium Caſtrum, quod dicitur. Northampton ad diem igitur et locum hunc

C *ex Edicto Regio, Regni* Pontifices univerſi, *et* Proceres *diſtrictiſſime convocantur.*

Rex aliud generale *edicit* Concilium *apud Northamptonam.* Fits. Steph. p. 21.

Rex Angliæ congregatis apud Windeſhores in octabis Sancti Michaelis Archiepiſcopo *Cantuarienſi et* Epiſcopis Angliæ *et* Comitibus *et* Baronibus, *Terræ ſuæ coram Henrico filio ſuo et coram Laurentio Archi-Epiſcopo Dublinenſi.* Ben. Abbas p. 70. a. A. D. 1175. 21. Hen. 2.

Rex Henricus pater magnum *celebravit* Concilium *apud Windeſhores in Octabis feſti Sancti Michaelis.* Præſentibus *Rege* filio, *et Richardo*

D *Cantuarienſi* Archiepiſcopo, *et* Epiſcopis *Angliæ, et coram Laurentio Dublinienſi* Archiepiſcopo, *præſentibus etiam* Comitibus, *et* Baronibus, *Angliæ. In quo Concilio*, &c. Roger Hoved. f. 312. b. n. 10. Anno eodem.

Dominus Rex apud Northampton magnum celebravit Concilium in feſto Converſionis Sancti Pauli de Statutis *Regni coram Rege* filio ſuo, *et coram* Archi-epiſcopis, Epiſcopis, Comitibus *et* Baronibus *regni ſui.* Ibid. f. 313. a. n. 50. A. D. 117[illegible].

E *Dominus Rex magnum celebravit Concilium apud Northampton de Statutis Regni ſui circa feſtum Converſionis Sancti Pauli, coram* Epiſcopis *et* Comitibus *et* Baronibus *Regni ſui. Et coram eis per Conſilium Regis Henrici* filii ſui, *et per Conſilium* Comitum *et* Baronum, *et* militum, *et* hominum ſuorum, &c. Ben. Abbas. p. 72 b. A. D. 117[illegible].

Circa feſtum Sancti Pauli Rex Northampton veniens, ibi cum Epiſcopis, Comitibus, *et* Baronibus ſuis *Angliæ* magnum *celebravit* Concilium *de* Statutis *Regni.* Bromton. col. 1108. n. 10. *A. D.* 117[illegible].

F *Habito igitur Concilio Lundoniis Rex pater Conſilio* univerſorum Epiſcoporum, Comitum & Baronum Regni, *conceſſit Regi Siciliæ filiam ſuam.* Hoved. f. 315. a. n. 10. *A. D.* 1176. 22. Hen. 2.

Rex congregatis in urbe Lundoniarum Archi-præſulibus, *et* Epiſcopis *et* Comitibus *et* ſapientioribus *regni ſui, conſuluit eos Quid tam magni regis nuntiis reſponderet*, &c. who came to demand his Daughter *Johanna* for *William* King of *Sicilie.* Sapientiores inſtead of Barones. Ben. Abb. p. 77. a. *A. D.* 1176. the very words of the Hiſtorian 22. Hen. 2.

Hoved. f. 320. a. n. 30. *A. D.* 1177. 23. Hen. 2.

Rex Angliæ Pater celebrato Concilio generali *apud Northampton poſt feſtum Sancti Hillarii*, &c.

Ben. Abbas. p. 84. a. Anno eodem.

Rex Angliæ ſtatim poſt feſtum Sancti Hillarii venit Northampton, et ibi magnum *celebravit* Concilium, *cum* Epiſcopis *et* Comitibus, *et* Baronibus *regni ſui.*

In the Controverſie and claim between the Kings of *Caſtile* and *Navarre*, referred to the Court of the King of *England.* A

Hoved. f. 320. b. n. 40. *A D.* 1177.

Prima die Dominica Quadrageſimæ venit Rex Lundonias generale Concilium *celebraturus, cui interfuerunt*, Epiſcopi, (there named particularly) Abbates, Priores, Comites, *et* Barones *Angliæ.*

Ben. Abbas. p. 86. b. *A. D.* 1177.

Rex miſit nuntios ſuos per totam Inſulam Angliæ, et mandavit Archiepiſcopis, Epiſcopis, Comitibus *et* Baronibus *totius Angliæ Quod eſſent ad eum apud Lundonias Dominica prima poſt caput Jejunii.* B

Hoved. f. 337. a. n. 20, 30. *A. D.* 1179. 25. Hen. 2.

Dominus Rex pater celebrato magno Concilio *apud Windeſhores communi Concilio* Archiepiſcoporum, Epiſcoporum, Comitum, *et* Baronum, *coram Rege* filio *ſuo, diviſit Angliam in quatuor partes: et unicuique partium, præfecit viros* Sapientes *ad faciendam Juſticiam in terra.* Sapientes here for *Judges*, or *Itinerant* or Circuit Juſtices.

Hoved. f. 376. a. n. 30. *A. D.* 1189. 1. Ric. 1. C

Ricardus Rex Angliæ et Comites, et Barones ſui qui crucem ſuſceperant in generali Concilio Conſtituti apud Lundonias Juraverunt, &c.

Fol. 255. n. 50. Anno Eodem.

And about the ſame buſineſs *Mat. Paris thus. Rex Angliæ Convocatis Epiſcopis & Regni proceribus apud Weſtmonaſterium, a nunciis prædictis accepto Sacramento*, &c.

Hoved. fol. 418. B. n. 10. Anno. 1194. 5. R. Ricardi. D

Richardus Rex Angliæ convocatis coram eo Epiſcopis Comitibus et Baronibus Regni oſtendit eis Literas Comitis Johannis et earum Tenorem.

Ibid. fol. 419. A. n. 20.

Martii 30. *feria* 4. *Richardus Rex Celebravit Concilium apud Nottingham, cui interfuerunt Alienora Regina Mater ejus, Archiepiſcopi, Epiſcopi, Comites, ubi poſtulat Judicium fieri de Comite Johanne.*

Ibid. B. n. 40.

11 *Aprilis Rex Angliæ Habita cum Epiſcopis & Comitibus & Baronibus ſuis cum deliberatione Concilio apud Northampton*, &c. E

Matt. Paris. fol. 209. n. 50. 5. Reg. Johannis.

Anno 1204 *In Craſtino Circumciſionis Convenerunt ad Colloquium apud Oxoniam* Rex *et* Magnates *Angliæ, ubi conceſſa ſunt Regi Auxilia Militaria, de quolibet Scuto Scilicet duæ Marcæ et Dimid. nec etiam* Epiſcopi *et* Abbates *Sive* Eccleſiaſticæ perſonæ *ſine promiſſione receſſ runt.*

Ibid fol. 239. n. 40. 14. Reg. Johannis. F

Anno 1213 *Interfuerunt Concilio apud* Sanctum Albanum Galfridus filius Petri, *et* Epiſcopus Wintonienſis *cum* Archiepiſcopo *et* Epiſcopis *et* Magnatibus *Regni. Geofry fitz-Peter*, and the Biſhop of *Wincheſter* were the Kings Commiſſioners.

Ibid. fol. 247. n. 20. Anno 1213.

Convenerunt Rex cum Legato, Archiepiſcopus *cum* Epiſcopis, Magnatibus, *ac omnibus viris Religioſis ad interdicti negotium Contingentibus apud Radingum octavo Idus Decembris*, &c.

Anno

Anno 1215 *convenerunt apud Runinge Mede decimo quinto die Junii* Rex & Magnates; *At* partibus *seorum* considentibus *cæperunt de pace diutius & Libertatibus tractare sepedictis.* — Ibid. fol. 255. n. 40. 16. Johannis.

A *Anno* 1223. *Rex Henricus ad Natale tenuit curiam suam apud Oxoniam & postmodum in Octabis Epiphanii apud Londonias veniens cum* Baronibus *ad* Colloquium, *requisitus est ab* Archiepiscopo & Magnatibus *aliis ut* Libertates *& Liberas consuetudines pro quibus Guerra mota fuit contra Patrem, confirmaret.* — Ibid. fol. 316. n. 50. 7. Hen. 3.

Anno 1224. *Convenerunt ad Colloquium in Octavis Sanctæ Trinitatis apud Northampton Rex cum* Archiepiscopis Episcopis Comitibus Baronibus & aliis Multis *de regni Negotiis Tractaturi.* — Ibid. fol. 320. n. 30. 8. Hen. 3.

B *Anno* 1225. *Rex Henricus ad Natale tenuit Curiam suam apud Westmonasterium presentibus* Clero & Populo *cum* Magnatibus *Regionis. In hâc* Solennitate completa *concessa est Regi xv pars rerum Mobilium.* — Ibid. fol. 323. n. 10. 9. Hen. 3. when Magna Charta was granted.

Eodem Anno Mense Martio Convenerunt apud Westmonasterium ad Colloquium Rex Anglorum *cum* Magnatibus *suis.* — Ibid. fol. 324. n. 20.

C *Anno* 1230. 7. *Calend. Februarii Convenerunt ad Colloquium apud Westmonasterium Rex cum* Prælatis & *aliis* Magnatibus *Regni; Ubi exegit Idem Rex* Scutagium, *de quolibet* Scuto *tres* Marcas *ab omnibus qui* Baronias *Tenebant tam* Laicis *quam* Prælatis. — Ibid. fol. 367. n. 50. 14. Hen. 3.

Anno. 1232. *Nonas Martii Convenerunt ad Colloquium apud Westmonasterium ad vocationem Regis* Magnates *Angliæ tam* Laici, *quam* Prælati. *Ubi Rex* Auxilium *per totam Angliam sibi dari postulat.* — Ibid. fol. 372. n. 40. 16. Hen. 3.

D *Eodem Anno apud Lambeiam ad Colloquium in exaltatione Sanctæ Crucis Coram Rege Convenerunt* Episcopi & alii *Ecclesiarum* Prælati *cum* Proceribus Regni. *Ubi concessa est Regi* 40 *pars Mobilium.* — Ibid. fol. 377. n. 50.

Anno 1234. 5 *Idus Aprilis Convenerunt ad Colloqnium apud Westmonasterium* Rex *cum* Comitibus & Baronibus: *Et* Archiepiscopus *cum suis* Suffraganeis. — Ibid. fol. 397. n. 10. 18. Hen. 3.

E *Anno* 1236. 4 *Calend. Maii* congregati *sunt* Magnates *Angliæ Londini ad* Colloquium *de* negotiis *Regni tractaturi.* — Ibid. fol. 429. n. 30. 20. Hen. 3.

Anno 1237. *Tenuit Rex Curiam suam ad Natale apud Wintoniam, misit autem continuo per omnes fines Angliæ Scripta Regalia, præcipiens* omnibus ad regnum Angliæ Spectantibus, *videlicet* Archiepiscopis Episcopis Abbatibus Prioribus *installatis* Comitibus & Baronibus, *ut omnes sine omissione in octavis Epiphaniæ Londoniis convenirent, Regni negotia tractaturi totum Regnum contingentia. Venit igitur die Sancti Hilarii Londonias* infinita *Nobilium* Multitudo, *viz.* Regni totalis Universitas. — Ibid. fol. 435. n. 10. 21. Hen. 3.

F *Eodem Anno Scripsit Rex* omnibus Magnatibus, *ut Coram eo, & Domino Legato in festo Exaltationis Sanctæ Crucis apud Eboracum Convenirent de* arduis Negotiis *regnum Contingentibus tractaturi.* — Ibid. fol. 446. n. 30.

Anno

Ibid. fol. 579. n. 40. Note who were the *Magnates Angliæ.* 26. Hen. 3.

Anno 1242. *Scripſit Rex Anglorum* omnibus *ſuis Angliæ* Magnatibus, Archiepiſcopis, Abbatibus, Prioribus, Comitibus & Baronibus *diſtricte præcipiens ut omnes generaliter Londinum die Martis proxime ante Purificationem B. Virginis Convenirent de* arduis negotiis *regni dilationem non capientibus, cum ſumma deliberatione tractaturi.*

Ibid. fol 693. n. 20. Note the *Magnates* 28. Hen. 3.

Anno 1244 *Convenerant regia Submonitione convocati Londinum* Magnates *totius regni,* Archiepiſcopi, Epiſcopi, Abbates, Priores Comites & Barones. A

Ibid. fol. 696. n. 30. Note the *Magnates* 30. Hen. 3.

Anno 1246. *Rex Miſſis Literis ſuis* totius regni Magnates *convocavit ut Londini die qua cantatur Lætare Jeruſalem videlicet media quadrageſima de ſtatu regni generaliter convenirent tractaturi.*

Ibid. fol. 696. n. 10. & 698. n. 40. Compare this with *Magnates* above and note who they were.

Medio Quadrageſimæ, videlicet die qua Cantatur Lætare Jeruſalem Edicto Regio convocata, convenit ad Parliamentum Generaliſſimum *totius regni Anglicani* Totalis Nobilitas *Londini, videlicet* Prælatorum, *tam* Abbatum, *&* Priorum *quam* Epiſcoporum, Comitum *quoq; &* Baronum. B

Ibid. fol. 709. n. 30. *Magnates.*

Eodem Anno die Tranſlationis B. Thomæ Martyris habitum eſt Magnum Concilium *inter* Regem *&* Magnates *Regni apud Wintoniam ſuper Multiplici Regni totius, & Maxime Eccleſiæ deſolatione.*

C

Ibid. fol. 719. n. 30. 31. Hen. 3. & 720. n. 50.

Anno 1247. *Fecit Dominus* Rex Magnates ſuos *nec non et Angliæ* Archidiaconos *per Scripta ſua Regia Londinum convocari.*

Ibid. fol. 730. n. 10.

Eodem Anno Dominus Rex comperiens regnum ſuum enormiter periclitari, juſſit omnem totius regni Nobilitatem *convocari, ut de ſtatu ipſius tam manifeſte periclitantis, Oxoniis die qua Cantatur Quaſi modo geniti, diligenter contrectarent.*

D

Ibid. fol. 743. n. 50. 32. Hen. 3.

Anno 1248. *In Octavis Purificationis* Edicto Regio *convocata totius Regni Angliæ* Nobilitas *convenit Londini, ut de regni negotiis minis perturbati & depauperati & temporibus noſtris enormiter Mutilati, diligenter & efficaciter ſimul cum Domino* Rege *contrectaret.*

Ibid. fol. 865. n. 40. 37. Hen. 3.

Anno 1253. *In Quindena Paſchæ Menſe Aprili,* Tota *Edicto Regio* convocata *Angliæ* Nobilitas *convenit Londini de arduis Regni Negotiis ſimul cum Rege tractatura.*

E

Ibid. fol. 887. n. 10. 38. Hen. 3.

Anno 1254. Congregati *ſunt Angliæ* Magnates *Londini; quibus ſignificavit Rex quod pecunia indigebat, & viribus amplioribus ad repellendum violentiam magni Hoſtis Supervenientis.*

Ibid. fol. 904. n. 40. 39. Hen. 3.

Anno 1255. *In Quindena Paſchæ quæ vulgariter Hokeday appellatur convenerunt Londini* omnes Nobiles *Angliæ tam* viri Eccleſiaſtici *quam* Seculares, *Ita quod nunquam tam Populoſa Multitudo ibi antea viſa fuit congregata.* F

Ibid. fol. 913. n. 40.

Anno ſub eodem ad feſtum Sancti Edwardi fuerunt apud Weſtmonaſterium omnes *fere Angliæ* Magnates.

Ibid. fol. 1006. n. 10. 54. Hen. 3.

Anno 1270. *Rex Angliæ in Octavis S. Martini* Parliamentum *Tenuit apud* Marleberwe *in quo de* aſſenſu Comitum & Baronum *edita ſunt ſtatuta quæ de* Marleberwe *vocantur.*

The

THE GLOSSARY.

Allodium, Allodiarii, Alodium, Alaudum, Alodiarii, Alode, Alodarii, Aloarii.

ALL these words, though variously written, are of the same signification: There are many *Etymologies* of them given by **Budæus, Beatus Rhenanus, Aventinus, Cujacius,** and others, which I pass by as meer Conjectures. **Wendelin** in his *Salic Glossary* [1] of **Atuatic** words, derives them from the Saxon **Æl,** *omnis, Totus, integer,* **All**; which is always a note of Perfection in Compounds: And *Lod,* as he renders it, *onus,* from **Ladan** *tollere, auferre.* This I confess sounds well; but there can be no congruity of sense between the two words. Also he derives it from the *Saxon* **Ælð,** *senex, old, ancient, aged*; because *Alodium* was an old Patrimonial Inheritance that descended from *Ancestors* in Blood; and it was sometime called *Patrimonium Aviaticum,* when it came from the *Grandfather, Paternicum* when from the Father, *Maternicum* when from the Mother. These in *Saxon* were called **Aldors,** in *Latin Majores,* in *English Antecessors,* or *Aunc*estors in Blood. *Nullus* **Bavarus alodem** *aut vitam sine Capitali Crimine perdat,* No **Bavarian** shall forfeit his **Alode,** or Life without a Capital Crime. That is, If either he conspires the Death of the *Duke,* or invites his Enemies into the *Country,* or contrives to deliver a *City* to Strangers, and be convicted. *Tunc in Ducis sit potestate vita ipsius, & omnes res ejus & Patrimonium,* Then let his Life be forfeit to the *Duke,* and all his *Goods* and *Patrimony. Leg. Boioar. Tit.* 2. *Cap.* 1. *Sect.* 3. in another place, where there was Contention about the Bounds of Lands, and they could not be set forth, the Possessor was to affirm and make it good, *Hucusque Antecessores mei Tenuerunt, & in* **Alodem** *mihi Reliquerunt, &c.* Hitherto my *Ancestors* held so much Land, and left it to me in **Alode,** *ibidem, Tit.* 11. *Cap.* 5. Mr. [2] **Somner** says **Alodium, Alod,** is compounded of the *Saxon* **Æl** or **all,** and the *Teutonic* **heyd** or **heit,** which we call **hode,** or **hood,** that is, **allhode,** which expresseth the *Quantity, Nature, Kind* and *Condition* of a Thing, as *Knight-hode, Man-hode,* **Child-hood, Father-hode, Priest-hode, Neighbour-hood, Lively-hode,** and many more, which do as it were denote the *Nature, Totality,* and *Integrity* of a *Thing*; and this *Etymology* agrees well with the signification of the word; for by **Alodium** is meant *Propriety,* and Lands holden *Optimo Jure,* most freely, without any *Works, Services,* or usual *Præstations,* which though they are not properly under the *Dominion* of the *Prince,* yet they are under his [3] *Protection* and *Guard.*

[1] In the word *Alode.* The Derivation of *Allodium, &c.*

[2] Glossar. in the word *Feodum,* and in his *Gavelkind,* p. 106, 107, *&c.*

Mr. *Somners* Etymologie in the word *Allodium.*

[3] *Wendelin ut supra.*

[4] *Du Fresns* Gloss. in the word *Alodium*

Alodium is the same with [4] *Prædium, Possessio, Hæreditas, & Proprietas*, which any Man may give or sell. In a great scarcity **Charles** the *Great* set the price of Grain, in which Law, **Alode**, and *Proprietas* seem to be the same, and are both opposed to **Beneficium** or **Feodum**; *Qui* **Beneficia** *Regalia, tam de Rebus Ecclesiasticis, tam de Reliquis habent, unusquisque suam familiam suo Beneficio, Nutricare faciat; & de sua proprietate propriam familiam nutriat, & si Deo dante, super se, & super familia sua, aut in Beneficio aut in* **Alode** *annonam habuerit, & venum dare voluerit, non carius vendat*, &c. *Capitul. Car. & Lud. Lib.* 1. *C.* 132. *Audivimus Quod aliqui reddant* **Beneficium** *Nostrum, ad alios homines in proprietatem, & in ipso placito dato pretio comparant, ipsas res iterum sibi in* **Alodem**. *Quod omnino Cavendum est. Quia qui hoc faciunt, non bene Custodiunt fidem, Quam nobis promissam habent; & ne forte in aliqua Infidelitate inveniantur, Qui hoc faciunt, Deinceps Caveant se omnino à Talibus, ne à propriis honoribus, à proprio solo, à Dei Gratia, & nostra Extorres fiant. Ibidem, Lib.*3. *C.* 20. *Hæreditatem Defuncti filius non filia suscipiat, &c.* Let the Son of the Defunct have the Inheritance: If the Defunct hath no Son, *ad Filium Pecunia & Mancipia, Terra vero ad proximum Paternæ Generationis Consanguineum pertineat*; Let the *Daughter* have the Stock and the *Servants*, and he that is next a Kin to the *Father* the Land. *Leg. Anglorum, Tit.* 6. *De* **Alodibus** *si quis absque liberis Defunctus fuerit, si Pater materque superstites fuerint, in hæreditatem succedant: Si Pater materque non fuerint, frater & soror succedant, si autem eos non habuerit, tunc frater & soror matris, patrisque succedant, & Deinceps usque ad quintum* **Geniculum**, *qui proximus fuerit in hæreditatem succedat.* **Sed Dum Virilis Sexus Extiterit**, fœmina in hæreditatem **aviaticam non succedat**, *Leg. Ripuar. Tit.* 56. *De* **Alodibus**.

A

B

C

If any Man dies without Children, let his *Father* and *Mother*, if alive, succeed in the *Inheritance:* If he hath neither *Father* nor *Mother*, let his *Brother* and *Sister* succeed: If he hath neither, then the *Brother* and *Sister* of his *Father* and *Mother* may succeed; and so on to the *Fifth* **Generation**, let him that is next in Blood succeed. But while there is any of the *Masculine Sex* in being, a *Woman* may not succeed in the *Grandfathers*, or *Ancient Inheritance*. And as it was Land that *Descended*, or Land of *Inheritance*, it was opposed to Land that was Purchased. *Wendel. & Du Fresn, in locis citatis.*

D

A Woman not to succeed in the Grandfathers Inheritance.

[5] *Du Fresn ut supra.* Lands held in *Allodio* were much like our Freehold.

It was much like that we call *Freehold*, [5] and was Land free from all *Præstation* or *Payments*, and all Service both Real and Personal, yet the Possessor acknowledged a *Lord* of whom he held it, as in *Honourable Fee, Dominum agnoscit, à quo* **Alodium** *tenebat in* **Feudum** *honoratum.*

E

[6] Monast. Anglican. Vol. 2. f. 959. n. 50. [7] Ibidem, f. 960. n. 40. [8] Ibidem, n. 50. Lands given in *Alodio* to any religious use, were the same with *Elemosyna.*

William when only *Duke* of **Normandy**, *A. D.* 1042. on the 12th of *April*, gave Lands in **Alodium** to the *Monastery* of **Ternay**, Founded to the Honour of *St.* **Wigor**. *Ego* **Willielmus Normanorum** *Dux*, [6] *Dedi Terram quam* **Wigotus** *barbatus tenebat in* **Alodio** *liberam & solutam ab omnibus Consuetudinibus mihi pertinentibus.* To the same Monastery, **Wigot** of *St.* **Denis** [7] gave Lands in **Alodio**, and **Hubert Fitz-Herion** [8] gave Lands in **Alodio**. So that here Lands given in **Alodio**, and *Elemosyna*, free from Secular *Services* and *Præstations*, were reputed the same. So **William Rufus** in a *Penitential Humour*, and great fit of *Sickness*, on the sixth of *March*, *A. D.*

F

A. D. 1093. gave to Anſelm Archbiſhop of Canterbury, that *City* and the *Abby* of *St.* Albans in Alodium, [9] *præcepit itaque* Rex *ut ſine Dilatione & Diminutione, inveſtiretur* (Anſelmus) *de omnibus ad Archiepiſcopatum pertinentibus intus & extra. Atque ut Civitas* Cantuaria, *quam* Lanfrancus *ſuo Tempore in Beneficio à Rege tenebat, & Abbathia Sancti* Alban', *quam non ſolum* Lanfrancus, *ſed & Anteceſſores ejus habuiſſe noſcuntur, in* Alodium *Eccleſiæ Chriſti* Cantuarienſis, *pro Remedio Animæ ſuæ, perpetuo Jure Tranſirent.* Here Alodium was Land given in pure *Alms* in perpetual Poſſeſſion, which was a kind of Inheritance in Right of the Church, and oppoſed to *Beneſice*, or *Fee*, as it had Secular Service belonging to it: for that was given moſt frequently for *Military* Service, or in *Serjanty* for other Services and Performances, and was not an Inheritance, but for Life, or a Term only at the firſt Inſtitution, and many ways forfeitable to the *Lord* or *Patron*, in whom the *Fee* remained, the *Feudatary* or *Vaſſal* having only the Profit, or *Dominium Utile* of it.

[9] Eadmer. Hiſtor. Novor. f. 18. n. 40. 50.

Alodium oppoſed to *Beneficium.*

Some of this Land we find in *Domeſday-Book*, but not free from all *Payments* and *Præſtations*, for it always paid the Land-*Tax* called *Hidage.* [1] Soartin *tenet* Dodintone *de Rege, ipſe & alter liber homo tenuerunt in* Alodio *de* Rege Edwardo, *tunc Geldabat pro una Hida & Dimid' tertia parte unius Virgatæ, Minus.* Soartin holds Dodintone of the *King*, he and another Freeman held it in Alodio of *King* Edward, then it was *Taxed* at one *Hide* and *half*, and the third part of one *Virgate* more or leſs.

Alodium not free from all Payments.

[1] *Hanteſcire f.* 54. *Tit. Terræ Tainorum Regis, f.* 53. b. *Col.* 2.

Edwardus [2] *tenèt de* Rege *unam Hidam in* Coſerige, *ipſe tenuit in* Alodium *de Rege* Edwardo, *& pro una hida ſe Defendebat, &c.* Edward holds of the *King* one *Hide* in *Coſerige*, he held it in Alodium of *King* Edward, and it was *Taxed* for one *Hide, &c. Geldare*, and *ſe Defendere*, ſignifie the ſame thing in *Domeſday*; and wherever we find any Alodium there, it is thus Entred.

[2] *Ibidem, fol.* 63. b. *Col.* 1. *Berrocſcire Tit. Terra Odonis & aliorum Tainorum.*

According to the [3] particular, Municipal *Cuſtomaries* of France, there was Alodium *Nobile*, and Alodium *Villanum. Noble* Alod, had *Juriſdiction*, and *Superiour Juſtice* belonging to it, and was not obnoxious to *Homage* or *Feudal* Service, nor Fines for Licenſe to Tranſfer or Sell it. *Villan* Alod was like the other in *All Things*, ſave that it had no *Juriſdiction.* In *French* the firſt is called Aleu Noble, and the later Aleu Roturier; and were exempt from all *Juriſdiction* and *Superiority Feodal*, but yet were ſubject to the *Juriſdiction* and *Soveraignty* of the *King*, or other *Lord* that had *Juriſdiction* over the place where it was.

[3] *Berault Cuſtome de Norm. Art.* 102. *Alodium Nobile & Villanum.* The former not obnoxious to Feudal Service.

Allodiarii, Alodiarii, Alodarii, and Aloarii, were Poſſeſſors of Lands of this nature. There were alſo Bona Alodialia, poſſeſſed after the ſame manner: but of the word Alodialis, as it is referred to a perſon, there may be ſome doubt, though Du Freſn ſaith it is the ſame with Alodarius, *&c.*

Aldii, Aldiones, Aldiæ, Aldianæ.

THE Persons and Goods of these Persons, were in the Power of their *Lords* and *Patrons*; yet if they Killed them, they lost the *Possession* of their *Children* and *Goods*, and paid a *Compensation* to the *King* for Killing them, which was the value of them when Living. *Si vero* Aldius *fuerit aut servus*, (that was killed) *perdat (Dominus) filios suos & res ipsius, & Componat in palatio Regis* Widrigild, *LL.* Longobard. *Lib.* 1. *Tit.* 9. *Sect.* 26. A

A Compensation paid to the King of *Lombardy* for killing any Servant or Vassal.

Si cujuscunque servus aut Aldius, *Ancilla vel* Aldia *in furto Comprehensi fuerint, & Dominus eorum neglexit eos liberare, & usque ad dies triginta eos Dimiserit, sint* * Fegangi: *& habeat eos in Transactum, cui furtum fecerint, & componat postea ipsum furtum sicut lex est & Edictum continet.* Ibidem, Tit. 25. §. 59. B

* *Vide Sect.* 2. *hujus Tituli: & in ipso furto tentus fuerit, id est, Fegangi.* 'Tis a *Lombard* word.

If any Mans Servant, or Aldius, or Woman-Servant, or Aldia, were taken for Theft, and their *Lord* or *Patron* neglected to free them in thirty days, they were then to be reputed manifest Thieves, as if they had been taken in the manner or very act; and he from whom they had stoln, might have them, as if he had *transacted* or *bargained* for them, and he might compound with the Prince for the Transgression, according to the Law and Edict: that is the *Edict* of Rotharis, §. 6. and this very Title of the first Book was that Edict, *Sicut in hoc Edicto Legitur, Cap.* or §. 1. *Rex* Rotharis. C

If a Servant steals, and his Patron neglect to make restitution, he becomes that Mans Servant from whom he stole.

Si quis cum servo, aut Aldione, *vel cum pertinente alieno, de re qualicunque convenerit; sine notitia Domini sui, & probatum fuerit, Quod res Domini sui naufragasset; Tunc reddat ipsam Rem, qui eam suscepit, absque pretio Domino ejus: & postea Dominus de servo vel* Aldione *suo faciat quod illi placuerit.* Ibidem, Lib. 2. Tit. 33. §. 5. If any Man *bargains* for any thing, with another Mans *Servant*, Aldio, or one that so belongs to him as he cannot go from him, without the knowledge of his Master, and it be proved he *imbezled* his Patrons Goods, he that received them ought to return them without price; and the Master afterward may do with his *Servant* or Aldio what he pleaseth. D

He that bargains with another Mans Servant, is bound to restore without price.

Aldiones vel Aldiæ ea lege vivant in Italia *in servitute Dominorum suorum qua* Fiscalius *vel* Liti *vivunt in* Francia, *LL.* Longobard. *Lib.* 3. *Tit.* 20. E

Sir Henry [4] Spelman from Amerpachius his Notes, upon the *Constitutions* of Charles the Great, says, That Aldii, Liddi, Lidi, or Liti were *German* words, and differed not, unless one was then used in Italy, and the other in France and Germany, especially amongst those *Germans* which were called *Francs*, and affirms that both words do signifie a Servant. F

[4] Glossar. in verbo *Aldius.*

Wendelin in his *Salic* [5] *Glossary* as he derives the word Alode from Aelde, because it was Land frequently descended from Ancestors in Blood, so he derives the words Aldius, *&c.* from the same, and says

[5] In the word *Alode.*

says they were *Glebæ ascriptitii*, Persons bound to live upon the Alode, or *Propriety*, and were part of the Alode left by Parents to their Children, as Servants, *&c.* upon other Tenures.

Aldii bound to live upon the *Alode*, or Propriety.

In the *Donation* of William Duke of Normandy to the [6] Monastery of St. Vigor before mentioned, he not only gives the Lands to be holden in Alodio, or *Propriety*, but gave also Alodial Persons. A *Dedi etiam Ecclesiæ Sancti* Vigonis Radulfivillam, *& unum Alodialem in ipsa Villa, & in* Solevilla, *unum* Alodialem, *dedi quoque unum* Alodialem *in* Amundi-villa, *quietum ab omni consuetudine.* This seems to give credit to Wendelius conjecture, also to shew that Alodiarii, and Alodiales, were not the same.

[6] Monast. Vol. 2. f. 959. n. 40. 50.

Alodiales given by the Conqueror to the Monastery of St. *Vigor*.

Yet perhaps Alodiales might be the same, or some such Persons, as the Franci Viri & Villani, Freemen and Villans, which Alfred the B *Giant* gave to the same Monastery. The Chart is short, and conteins much variety, and therefore shall cite the whole. *Ego* [7] Alurédus Gigas, *in præsentia Domini mei* Willielmi *Comitis, ac omnium* * *procerum ejus, pro anima mea, parentumque meorum, Dedi Deo &* Sancto Vigori *& Monachis ejus, totam terram meam de* Iepotibus, *favontibus uxore mea, & filiis, & filiabus, necnon & omnibus propinquis meis; in* * Jus propriæ hæreditatis, *cum omnibus quæ in* Dominio *illic Tenebam. Hoc est terram cultam & incultam, &* C *prata, Totamque Aquam cum dimidio Molendino: Silvam etiam de* Ceoma, *set & terram quam Tenebam in Valle* Cleopelli; *& omnes* Francos viros *atque* Villanos. Addidi *etiam totam terram quam* Walterus *presbyter de me tenebat, in Villa quæ dicitur* Taillet *cum Tota Ecclesia & Decima; Et in* Surrebamno *tertiam partem Ecclesiæ cum Decima illi parti pertinente, & in eadem Villâ viginti acras terræ: Et in* Huntevilla *totam terram, quam prædictus Presbyter tenebat, & prata & sextam partem unius Molendini.* Hæc *omnia nobis pertinentia ego* Walterus *Presbyter,* D *& filius meus* Aigulfus, *Deo &* Sancto Vigori *pro animabus nostris, post mortem nostram in* * Dominio *habere perpetualiter Concedimus hanc Cartulam.* Ego Willelmus Normannorum Dux, me auctoritate Coram * Episcopis & * Baronibus *meis confirmo, atque ab omnibus Consuetudinibus liberam esse Concedo; & Quicunque hæc violare præsumpserit,* Anathema sit. S. Sigillum vel signum, Willelmi Comitis ✠, S. Matildis Comitissæ ✠, S. Odonis Episcopi ✠, S. Alurédi Gigantis ✠, S. Rogeri de Monte-Gomerii ✠, S. Walteri E Presbyteri ✠, S. Aigulfi filii ejus ✠.

[7] Ibid. f. 960 Col. 1. n. 60.

Freemen and Villans given by Deed amongst the Normans.

* See *Episcopi*, and *Barones* afterward.

* See *Dominium* afterward.

* *Dominium*, and *Jus propriæ hæreditatis* are the same.

* This was a Norman great Council or Parlement.

F

Angli,

Angli, Anglici, Angligenæ.

THese words are frequently met with in *Ancient Historians*, as expressing Men of great Action and Atchievement, and are commonly thought to have been *Saxon-English*, and 'tis generally believed without the least Scruple, that they were such; but who-ever seriously attends to the things done, and will consider the Instances following, may perhaps change his thoughts. A

Angli signifies more than English-Saxons.

The very Titles of the *Conqueror*, and his *Successors*, plainly shew, that the Normans as well as Saxons, were called English. Gulielmus Rex Anglorum, and so his Sons William, Henry, and King Stephen, *&c.* nothing more frequent. In the *Conquerors* General Commission and Precept for the Restitution of Lands to *Bishopricks*, and *Abbies*, which had been taken away by his Normans. Willielmus *Dei Gratia Rex* Anglorum, Lanfranco Archiepiscopo Cantuar. *Et* Goisfrido *Episcopo* Constantiarum, & R. *Comiti* de Du, & *Richardo filio Comitis* Gilberti, & Hugoni *de* Monteforti, *Suisque aliis proceribus Regni Angliæ Salutem*, &c. Can any man think, That William Esteemed himself King only of the Saxon-English, and not of his Normans, that came with, and after him? If the Normans were his Subjects as well, as the Saxons or English, then certainly they were Comprehended in the Word, Anglorum, and were Reputed *English Normans*, nay *English* without Addition, by *King* William, and the Transmarine Normans, and so understood, by others at that time; and the Direction of the Writ, to *Arch-Bishop* Lanfrant, the *Earl* of Du, Richard Son of *Earl* Gilbert, and Hugh Montfort, and his other great Men of the Kingdom of England, makes it more clear, for these were all Normans, and yet in the Commission, called his great Men of the *Kingdom* of England, or English. B C D

William the Conqueror stiled *Rex Anglorum.*

A great design to Dethrone *William Rufus*, fol. 642. n. 32.

In the year 1088, which was the first of William Rufus, there was a Design laid, to Dethrone him, and make his Elder Brother Robert *King*, *Hoc Anno*, says Florence of Worcester, *inter Primates Angliæ*, *magna orta est Discordia*, *pars etenim Nobiliorum* Normannorum *favebant Regi* Gulielmo, *sed Minima: pars vero altera favebat* Roberto *Comiti* Normannorum, *& Maxima:* and then Reckons up the chief Favorers of *Duke* Robert, which were his two Uncles, Odo *Bishop* of Baieux, and *Earl* of Kent, who was Prisoner in Normandy until his half Brother the *Conqueror* Died, and Robert *Earl* of Moreton in Normandy, and Cornwal in England, Goisfrid *Bishop* of Constance, Robert *de* Molbrai or Mowbray, *Earl* of Northumberland, Roger *Earl* of Shrewsbury, and William *Bishop* of Durham, Eustachius the younger *Earl* of Boloigne, and the Mighty Norman Robert *de* Belesino. Simeon of Durham hath the same words, and adds to the rest, Roger Bigod *Earl* of Norfolk and Suffolk. Col. 214. N. 60. Malmsbury likewise adds Hugh *de* Grentemeisnil *Earl*, or *Vicount* of Leicester, fol. 68. a. lin. 5. *King* William having notice of this *Revolt* and *Contrivance*, *Convocare fecit* Anglos, & *ostendit eis Traditionem* Normannorum, & E F

& rogavit ut sibi auxilio essent, eo tenere, ut si in hac necessitate sibi fideles existerent, meliorem legem quam velint el gere, eis concederet, omnem injustum Scottum interdixit, & concessit omnibus silvas suas & venationes: Angli fideliter ei juvabant. Simeon Dunelm. Col. 214. n. 60. The *King* (meaning Rufus) called together the English, asked them to help him, and that in his necessity they would stand to him, upon which condition they should have what Law they would chuse, and he also would forbid all unjust Taxes, and grant them their Woods and Forrests, and Hunting. The English faithfully helped him. Florence of Worcester says, The *King* hearing of these things, *Congregato quantum potuit ad præsens,* Normannorum, *sed tamen maximè* Anglorum, *Equestri ac pedestri exercitu, tendere disposuit* Robeceastram; gathered together as many as he could of the Normans, but most of the English, and with an Army of Horse and Foot marched toward Rochester.

Malmsbury thus, *Rex videns* Normannos *pæne omnes in una Rabie Conspiratos,* Anglos *probos, & fortes viros, qui adhuc* Residui *erant, invitatoriis scriptis arcessit; Quibus super injuriis suis, Querimoniam faciens, bonasque Leges, & Tributorum levamen, liberasque venationes pollicens, fidelitati suæ obligavit,* f. 68. a. lin. 8, and n. 10. And then by fair words and promises drew off from his Enemies Roger *Earl* of Shrewsbury, by which he broke the Party. Ordericus Vitalis thus, *King* William so soon as he saw the contrivance against him, Lafrancum Archiepiscopum *cum suffraganeis præsulibus, &* Comites, Anglosque *naturales convocavit, & conatus Adversariorum, & velle suum, expugnandi eos indicavit,* f. 666. D. He called together Lanfranc the *Archbishop*, his *Suffragan Bishops*, the *Earls*, and *Natural* English, and shewed them the Designs of his Adversaries, and his intention to oppose them. And in the next Page, *Omnes Episcopi* Angliæ, *cum* Anglis *sine Dolo Regem Juvabant,* Hugo *Comes* Cestrensis, Guillermus *de* Warenna Robertus Haimonis *filius, aliique Legitimi Maturique Barones, Regi fideliter adhærebant, eique Armis & Consilio contra publicos hostes Commode favebant,* f. 667. C. All the *Bishops* of England with the English, without treachery assisted the *King*. Hugh *Earl* of Chester, William *Earl* of Waren in Normandy, and by Rufus made *Earl* of Surry, Robert Fitz-Haimon, *Baron* of Astreme-Ville in Normandy, and made *Earl* of Gloucester by the same *King*; and other true and ancient *Barons* faithfully adhered to the King, and favoured him with their Arms and Counsel against the Publick Enemy. To these he adds Robert *de* Rodelent General of the Army that besieged Rochester-Castle, the Defendents whereof when they sent *Conditions* to the *King*, upon which they would yield, received answer, That he would Hang them All. Upon which *severe* Resolution, the greatest of his own Friends and Assistants applyed themselves to him for favour towards them, using these Arguments, *Nos quoque qui tecum maximis in periculis sicut cum tuo Patre, perstitimus, nunc tibi humiliter astamus, & pro compatriotis nostris obnixe supplicamus,* &c. We also that have been in the greatest Dangers with your *Self* and *Father*, We humbly request your Favour for our Countrymen, &c. Ibidem, f. 668. A. And by their intreaty he was overcome, granting their Lives, and Liberty to march out of the Castle with their Horse and Arms.

According

The *Primates Angliæ* so called, were *Normans.*

According to the sound of the word Angli, and a superficial Reading of the *Authors* here cited, most Men would think they were only Saxon-English intended, and expressed by that word: but upon due Observation of the *Historians*, and Persons which were by them called Angli, it cannot be so: for the *Primates* Angliæ on both sides, the chief Men of England who favoured both *Duke* and *King*, were *Nobiliores* Normanni, the more *Noble* Normans; and as it is clear by the particular enumeration of the Persons they were so, on the *Dukes* side, so it is evident they were Normans which assisted *King* William, and kept the Crown upon his Head: He called together the English, says Malmsbury, and Simeon of Durham, and promised them the best Laws they should chuse, or good Laws, ease in their Taxations, the injoyment of their *Woods* or *Forrests*, and the privilege of *Hunting*. Certainly these were great Men, that he called together, English *Earls*, and *Barons*, and not Men of the *middle* or ordinary *Rank*; for they could never have met in such Numbers, as was requisite for them to do, to protect and defend *King* William, had they not been headed by such, if they had either Arms, or Power, or Estates that depended not upon the *Normans*: And if any Man can shew me an English-Saxon that was either *Earl* or *Baron*, or that had any Power, or share in the Government, or many that had considerable Estates, that did not hold them of the Normans, or that at this time had great Woods, Forrests, and privilege of Hunting in them, I will confess I am mistaken. 'Tis true, Malmsbury says Rufus called together Anglos probos, *& fortes viros, qui adhuc* Residui *erant*, &c. These here meant were the *legitimi, & maturi Barones*, such as *Ordericus* tells us of, that came in with his Father, and ran many Hazards with him, and first setled themselves here after the Conquest; such as petitioned King William for favour toward their Countrymen shut up in Rochester *Castle*; as many of these (that were alive) as he could, he fixed to his interest by the promises beforementioned: Yet some there were against him, whom he spared for their Merits toward his Father, and the Reverence he had to their Age, knowing they could not live long. *Antiquis Baronibus, Quos ab ipso aliquantulum desciverat nequitia, versutè pepercit, pro amore patris sui, cui diu fideliter inhæserant, & pro senectutis Reverentia: Sciens profectò, quod non eos Diu vigere sinerent Morbi, & Mors propria.* Order. f. 669. B. Some of those Ancient Barons that adhered to *King* William have been named by this *Historian*, to wit, Hugh *Earl* of Chester, William *de* Warrena, Robert Fitz-Haimon, Robert *de* Rodelent, all Normans, which came in with the *Conqueror*, besides many others in general: And all the *Bishops* of England, who at this time were Normans and *Forreigners*, not one Saxon amongst them, but old Wulstan *Bishop* of Worcester. See *Godw. de præsul. Angl.* 'Tis not probable these would raise an Army of Saxons, to beat them out of England again.

All the Bishops in *England* were *Normans*, but *Worcester.*

Most of the Saxon-English held what they had of the *Normans.*

4° Gulielmi Rufi: Anselmus *invitatus ab* Hugone Cestrensi *Comite, Multisque aliis* Anglorum, *Regni principibus, qui eum animarum suarum, medicum elegerant*, &c. Eadmer in *Vit.* Anselm. Lib. 2. *in princip.* Here Hugh *Earl* of *Chester*, and the other *Princes* or *chief Men* of the English, were all Normans, though called and reputed English.

Paris

Paris says that Hen. I. convened the *Clergy*, and all the *People* or *Laity* to London, and propounded to them that they would *receive* him as their *King*. The *Clergy*, and all the *Magnates* or great Men answered, If he would grant them, *&c.* they would unanimously make him *King*. He granted what they demanded, and forthwith Thomas *Archbishop* of York, and Maurice *Bishop* of London, Crowned him, f. 55. n. 20 30. Both these *Bishops* that Crowned him were Normans, as also were at
A that time all the other *Bishops* of England. See *Godw.* de Præsul. and likewise all the *Earls*, *Barons*, and great Men were Normans; and yet in the next Page Paris says, King Hen. was Crowned *de Communi Consilio Gentis Anglorum*, f. 56. n. 50.

All the great Men of *England* were Normans.

This *King* Hen. fearing the Title of his *Brother* Robert, and the *Revolt* of the English-Normans, calling the *Magnates* or great Men of the Kingdom together, in a flattering Speech bespoke their assistance: *Magnatibus Regni* Londonium *Edicto Regio Convocatis, Rex talibus alloquiis, super mel & favum, oleumque Mellitis & Mollitis blandiens Dixit, Amici & fideles mei, indigenæ, ac naturales*, &c. Paris, fol. 62. lin. 8.
B These great Men he spoke to, (or at least the *Historian* for him) were all Normans, and yet because most of them might be born in England, in that respect he calls them *home-bred*, or born in the same Country with* himself, and natural English. And proceeding in his *Harangue*, he tells them how he would Govern, and what great things he would confirm unto them, that they might thereby be engaged to stand
C faithfully by him, and stoutly repel the force and injuries of his Brother; *Si enim fortitudine* Anglorum *Roborer, inanes* Normannorum *minas nequaquam Censeo formidandas.* He addresseth himself still to the same great Men which were *really* Normans, and nevertheless calls them English. Ibidem, n. 20.

* *Hen.* I. was born in *England A.D.* 1068 the second year after the Conquest.

King *Hen.* calls his Norman Subjects English.

Robertus *interea* Normanniam *veniens Comitatum suum, obsistente nullo, recepit, quo audito omnes penè hujus Terræ* (meaning England) *optimates, Fidei Regi Juratæ Transfugæ fuere. Soli* Robertus *filius* Haimonis, *&* Ricardus *de* Redvers, *&* Rogerus Bigot, *&* Robertus *Comes de* Mellent, *cum fratre* Henrico (*Earl of Warwick*) *justas partes fovebant*, (meaning King Hen. I. his Cause) Malmsb. f. 88. a. n. 40.
D These five were all Normans, yet by Malmsbury called Optimates *hujus Terræ*, the chief Men of this Land, (meaning England.)

A. D. 1072. in the sixth of William I. in a great *Council* at *Windsor*, in the *Feast* of Pentecost, *Ego* Goisfridus Constantiensis *Episcopus, & unus de primatibus* Anglorum *consensi*, as a witness to the determina-
E tion of the Controversie between *Archbishop* Lanfranc, and Thomas *Archbishop* of York, *Malmsb.* f. 65. b. n. 30. & 66. a. n. 20. This Goisfrid was a Norman, and Bishop of Constance in Normandy, and yet stiles himself one of the *Prime*, or *Chief* of the English. So in the ninth year of the same *King* William, 1075. in an *Ecclesiastick Council* or *Synod* at London: *Ego* Gaufridus Constantiensis *Episcopus, et unus de* Angliæ *terræ primatibus subscripsi, Spelm. Concil. Tome* 2. *fol.* 8.

A Norman Bishop stiles himself *Primus Anglorum.*

Henricus *Rex* Anglorum Samsoni *Episcopo, et* Ursoni *de* Abetot,
F *et omnibus Baronibus, et fidelibus suis tam* Francigenis, *quam* Angligenis *de* Wirecestresc ra, *salutem. Lib. rub. in Scacario*, f. 163. b. This was the direction of the famous Charter of *Hen.* I. to Samson *Bishop* of Worcester, who was a Norman. *Godwin. de Præsul.* p. 509. and in the *Province* of York, ib. p. 23. and so was Urso *de* Abetot, who was made Hereditary *Sheriff* of Worcestershire by the *Conqueror*, and had many Lands given him in that *Shire*, Gloceſter, Hereford, and Warwickshires; *Dom-sdays*

Francigenæ and *Angligenæ* were such Normans as were born in *Normandy* and *England*.

Book in those *Counties*. And if in this place, the direction to French and English, signifies any thing more than bare form, the Francigenæ were such as were born in *Normandy*, or beyond the Sea, and the Angligenæ were probably such as were born in England, and lived here, injoyed their Fathers Estates, or had had Estates given them for their own Services and Merits.

The direction of the same *Charter* of Hen. I. in Mat. Paris is thus: Hen. *Dei gratia Rex* Angliæ Hugoni *de* Bocland *Vicecomiti, & omnibus fidelibus suis, tam* Francis *quam* Anglicis, *in* Herefordshire *salutem*, &c. f. 55. n. 40. This Hugo *de* Bocland was a Norman of an ignoble Stock, and a very ordinary person, advanced by King Henry above *Earls*, and *Illustrious* Men, and beyond what his Father ever possessed. Order. f. 805. B.C. And here the words of direction are Francis & Anglicis, almost equivalent with the other, the only difference is, they point at the place of Birth, and these at the place of Residence, and purporting such Normans that had Estates here, and lived in Normandy, or that sometimes were here, but mostly there, & other Normans that had their constant and fixed residence here, and were called and reputed English. A B

Normans that had their constant residence here were reputed English.

And that this is not said without Authority, observe the *direction* of the *Charter* of *King* William I. by which he severs the *Ecclesiastick pleas* from *Civil Causes*. Willielmus *Dei Gratia Rex* Anglorum, Radulpho Bainardo, Galfrido *de* Magna Villa, & Petro *de* Valoniis (all three Normans) *Cæterisq; meis fidelibus de* Essex, Hertfordshire, & *de* Middlesex, *Sciatis vos omnes & Cæteri mei fideles qui manent in* Anglia, &c. Spelm. *Concil. Vol.* 2. f. 14. A.D. 1085. Certainly the English-Saxons would never have left England if they might have staid freely without injury and oppression, and enjoyed their Estates; and therefore the *Cæteri fideles* that staid in England, besides those three here named, were Normans also, and reputed English, because of their Residence here. The same directions, and in the same words, and to the same persons, are in the *Charter* or *Grant* of Stortford *Castle*, with the Lands belonging to it, To Maurice *Bishop* of London in the last year of the *Conqueror*, A. D. 1087. *Dugd.* Hist. of St. Pauls, f. 196. C D

Anno Domini 1114. and the 14th of Hen. I. *April* 25. Ralph *Bishop* of Rochester was chosen *Archbishop* of Canterbury, and going thither, on the 17th of *May* following, it is said of him, *Egit primos dies Introitus sui, in magna Gloriâ, & Diviti rerum apparatu, gaudentibus Cunctis, & Deum Collaudantibus, quod jam tandem, post diutinam expectationem, Ecclesiæ suæ Pastorem, non de externis, sed de Domesticis instituere dignatus sit.* Eadmer, fol. 110. n. 10. 20. Men will be apt to think, because he is called *Domesticus*, that this *Archbishop* was an English-Saxon, and not a *Forreigner*, when it was not so: for he was a Norman born, first a *Monk*, then *Supprior*, *Prior*, and at last *Abbat* of Sees in Normandy. *Godw.* de Præsul. p. 96. Malmsb. f. 131. a. n. 20. 30. 40. The reason why he was called *Domesticus* probably was, for that being forced out of Normandy he had remained in England some time with the *Archbishop*, who made him *Bishop* of Rochester, where he remained six years before his Translation, there being a multitude of Norman *Abbats* lately come over, and plying up and down for Preferments. *Ibidem.* Or he might be called *Domesticus*, in respect of Faricius an Italian, then *Abbat* of Farendon, to whom the *King* had a mind to give the *Archbishoprick* of Canterbury, but was perswaded by the *Bishops* and great Men to confer it upon this Ralph or Rodulph. *Eadmer*, f. 109. n. 40. 50. f. 110. lin. 5. *Malmsbury*. f. 131. a. lin. 5. If so, Normans were not in Eadmers opinion, *Externi*, *Forreigners* or *Strangers*. E F

Why *Ralph* Archbishop of *Canterbury* was called *Domesticus*.

Ste-

Stephanus *Rex* Angliæ *Archiepiscopis, Episcopis, Abbatibus, Comitibus, Justiciariis, Vicecomitibus, Baronibus, et omnibus fidelibus suis* Angliæ, *salutem.* The *Chart* of *Agreement* between *King* Stephen, and Henry the Second, *Brompton*, Col. 1037. n. 60. The Witnesses to this *Chart* were Theobald *Archbishop of* Canterbury, Henry *Bishop of* Winchester, Robert *Bishop of* Exceter, Robert *Bishop of* Bath, Jocelin *Bishop of* Salisbury, Robert *Bishop of* Lincoln, Hilary *Bishop of* Chichester, William *Bishop of* Norwich, Richard *Bishop of* London, Nigel *Bishop of* Ely, Gilbert *Bishop of* Hereford, John *Bishop of* Worcester, Walter *Bishop of* Chester *alias* Coventry, Walter *Bishop of* Rochester, Geffrey *Bishop of St.* Asaph, Robert *Prior of* Bermundley, *in MSS.* Bec. Dun *a Knight-Templar*, William *Earl of* Gloucester, Reginald *Earl of* Cornwal, Baldwin *de* Donington. *in MSS. Comite* Devon, Roger *Earl of* Hereford, Hugh Bigot, Patrick *Earl of* Salisbury, William *de* Alba Marla, *Earl* Alvric, perhaps of Oxford, Roger *Earl of* Clare, Richard *Earl of* Penbroke, Richard *de* Lucy, William Martel, Richard *de* Humet, Reginald *de* Warenna, Manaser Biset, John *de* Pont, Richard *de* Cambille, Henry *de* Esser. Ibidem, Col. 1039. n. 50. All these *Bishops*, except the *Welsh Bishop*, were Normans or *Foreigners*, and so were all the *Earls* and *Barons* from Norman, or other Foreign Parents and Extraction; yet we see they were English *Bishops, Earls* and *Barons.*

Baldwin de Redveriis at this time Earl of *Devon.*

All these Bishops save one, and Noblemen were Normans and Forreigners, and yet called English.

Decimo Sexto Kalendarum Januarii Coronatus est, Rex Henricus *filius* Matildis Imperatricis *à* Theobaldo Cantuariensi Archiepiscopo, *totius* Angliæ *Primate, et Apostolicæ sedis* Legato *apud* Westmonasterium, Astantibus *et* Cooperantibus Archiepiscopis *Duobus, Quatuordecim Episcopis, Comitibus, et Baronibus Anglicanis, et Transmarinis, et innumera multitudine plebis.* Gervas. Dorobern. Col. 1376. n. 60. There was then but Sixteen Bishopricks in England, and both the *Archbishops*, and all the *Bishops*, at that time, were Normans and *Forreigners*, and all these English Barons were likewise Normans; that is, they were of Norman *Parents* and *Extraction.*

A. D. 1154. *primo Hen.* 2. All the Bishops that assisted at King *Hen.* Coronations were Normans or Forreigners.

Rex Henricus Normaniam *ire parabat,* Francos, *suosque vicinos sibi inimicitias extruentes, paci subigere, qua præditus erat industria volens. Sed ne quid in* Anglia, *se abeunte, remaneret indispositum, monasteria cuncta, quæ jamdiu curâ pastorali fuerant destituta, Consilio Episcoporum, et principum suorum, locatis personis, in hoc officium ordinavit, Quod si aliqui eorum Lupi magis quam Pastores effecti sunt; ipsi viderint, Rex eos ut Pastores, non Lupi essent (sicut credi fas est) collocavit. Quod tamen credibilius forte videretur, si non omnes ex alienigenis, sed aliquos saltem ex indigenis terræ. Non usque quaque* Anglos *perosus, tali in ministerio substituisset. Vitæ etenim meritum, ac regularis observatio Disciplinæ, necnon prudentia Rerum administrandarum, quæ oportebat eis qui respuebantur, non minus quam eis inerat, qui assumebantur; unum eos, Natio scilicet, Dirimebat. Si* Anglus *erat,* nulla virtus, ut honore aliquo dignus judicaretur, *eum poterat adjuvare. Si* alienigena, *solummodo, quæ alicujus boni speciem, amicorum Testimonio prætenderent, illi ascriberentur,* honore præcipuo *ilico* dignus judicabatur. Eadmer. f. 110. n. 30. 40.

A. D. 1114. *Hen.* 1. 14.

None but Strangers advanced to any Preferment in the Church.

That is, *King* Henry prepared to go for Normandy, intending to quiet the French and their *Neighbours*, who were contriving against him. Before his departure, by the advice of his *Bishops* and Great Men, he filled the Vacancies of all *Monasteries*, which a long time had been destitute of *Pastors* or *Governours*; and if any of them prove Wolves, rather than Pastors, let them look to it. The *King* (as may verily be thought) placed them there to be Pastors, not Wolves: which yet would have seemed more credible, if the *King* had not so far hated the *English*, as to have put into those Places, not all *Strangers*, but some *Natives* of the Land: For there was not less merit, or observation of Regular Discipline, nor prudence in Administration of Affairs in these that were rejected, than in those that were assumed and approved of. There was but one thing that kept them from these Offices, to wit, their Nation or Country: If he was an English-Man, no Virtue could qualifie him for any Preferment; if he was a Stranger, and had but a *pretence* only to Goodness by the *Testimony* of *Friends*, he was judged *worthy* the greatest *Preferment*. A B

Nothing could qualifie an English-man for Preferment.

Here without doubt by English, the Saxons were meant and understood, as may most probably be asserted from the Circumstances of the Antithesis, or *contra-distinction* between them and Strangers: though they do not absolutely and necessarily prove it. For fresh Normans, like Birds of Prey, came every day into England seeking Preferments; and it was forty seven years now since the Conquest, and the complaint might be taken up, as well for the Norman, as Saxon *Natives*; the word used in contra-distinction to the words Angli, and indigenæ *terræ*, being only alienigenæ. C

William *King* grets William *Biscoop* & Godfred Portefan, & Ealle *ya* Burghwaren binnen London, Frenciſce & Engliſce. That is, *King* William greets William *Bishop* and Godfrey the Port-Reve, and all the Inhabitants of the *Burgh* within London, French and English. This *Charter* was granted by the *Conqueror* to the Burgh, *City* or *Port* of London, in the time of William *Bishop* of the same, who was a Norman and *Bishop* there, as well before as after the Conquest, and died in the year 1070, the Fourth of *King* William, when he had not made an absolute *Conquest* of England: for at his first entrance many English enjoyed their Estates and Titles, as they had done before his coming; and it may be, some, until he had wholly subdued the Nation. So that by French and English in this *Charter*, the Saxons and Normans are to be understood; and indeed in *Burghs*, and Trading Towns, those words may be understood of them at all times: for the Conqueror turned not out the Inhabitants there, or took away the small Fortunes they traded with, he let them remain there, and Work, and Trade, he only taxed them when he pleased, or at least raised their Tolls and Customs, and placed and setled his Normans amongst them, to keep them in subjection, who had in many Towns where they lived and traded more easie Priviledges than the English, and the same they had before in the *Towns* and *Burghs* from whence they came in Normandy. See the Answer to *Argumentum Antinorman.* f. 289. E. D E F

By French and English, is meant Saxons and Normans in the particular Charter to the City of *London*, &c.

In

In old *Charts* we find the words **Angli**, & **Anglici**, **Angligenæ**, contra-distinguished to the words **Franci**, and **Francigenæ**.

Willielmus *Rex* **Anglorum**, **Walterio** *Vice-Comiti*, & *omnibus Baronibus suis* **Francigenis** & **Anglis**, *de Comitatu de* **Glocestre**, *salutem, sciatis me dedisse Ecclesiæ Sancti* **Andreæ** *de* **Rovecestra**, & *Episcopo* **Gundulpho** *Manerium Estona Testimonio*, **Walcelmi** *Episcopi* **Wintonien**sis, & **Roberti** *Episcopi* **Lincolnien**sis & **Willielmi** *Cancellarii* & **Ranulphi Capellani**, & **Eudonis** *Dapiferi*, & **Rogeri Bigot**, & **Hugonis** *de* **Evermu**. Monast. Angl. Vol. 1. f. 29. n. 20.

Willielmus *Dei Gratia Rex* **Anglorum** *Fidelibus suis* **Francigenis** & **Anglis**, *salutem, sciatis me Concessisse eam Donationem quam* **Haimo** *Dapifer meus fecit* **Ecclesiæ** *Sancti* **Andreæ Rossensis** *Civitatis de Ecclesia, &c. Testes* **Robertus** *Comes* **Wellent**, **Rodbertus** *Comes de* **Moritolio**, & *alii multi*. Ibidem, n. 40.

The *Fideles* and the *Barones* in the former Chart the same.

Willielmus *Rex* **Anglorum** *Episcopo de* **Suthfolca**, & *Vicecomiti*, & *aliis Baronibus suis* **Francigenis** & **Anglis**, *salutem, sciatis me Concessisse & Confirmasse Donum* **Rogeri Bigot**, *quod dedit Ecclesiæ Sancti* **Andreæ Rovecestræ** *scilicet Ecclesiam de* **Waletuna**, *&c. Testimonio* **Eudonis Dapifert** *apud* **Wintoniam**. Ibidem, n. 50.

Willielmus *Rex* **Anglorum** *Episcopo de* **Suthfolca**, & *Vicecomiti & cæteris Baronibus suis* **Francigenis** & **Anglis**, *salutem, sciatis me concessisse & Confirmasse Donum* **Gilleberti** *de* **Conebridge**, *quod dedit Ecclesiæ Sancti* **Andreæ Rovecestræ**, *scilicet Ecclesiam de* **Rathwelda**, *&c. Testimonio* **Rogeri Bigot** & **Haimonis** *Vicecomitis apud* **Wentoniam**. Ibidem, n. 60.

Willielmus *Rex* **Anglorum** *O. Episcopo* **Saresberiensi**, & *L. Abbati* **Glastoniensi** & *A. Vicecomiti omnibusque Baronibus* **Francigenis** & **Anglis** *de* **Summerseta** & **Wiltunescire**, *salutem, sciatis me dedisse Deo & Sancto* **Petro** *in* **Bathonia** & **Johanni** *Episcopo totam Civitatem* **Bathoniæ** *in Elemosinam, & ad Augmentationem Pontificalis sedis suæ; & ut cum maximo honore, ibi Pontificalem suam habeat sedem, & de hoc propalantur Testes*, **Walkelinus Wintonien**sis *Episcopus*, **Robertus Lincolien**sis *Episcopus*, **Robertus** *Comes de* **Wellent**, **Henricus** *Comes de* **Warwicke**, **Robertus** *filius* **Haimonis**, **Eudo Dapifer**, **Ibo Dapifer**, **Robertus** *filius* **Geraldi**, **Robertus Dispensator**, **Willielmus** *de* **Carokela**. Ibidem, f. 185. n. 10.

In Nomine Patris, & Filii, & Spiritus Sancti, Amen. **Henricus** *Gratia Dei Rex* **Anglorum** *Omnibus Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus & Fidelibus suis* **Francis** & **Anglis**, *Notum sit vobis quod eam Donationem, quam Donavi Deo, & Sancto* **Petro** *in* **Batha**, *ubi frater meus* **Willielmus** & *ego Constituimus, & Confirmavimus sedem Episcopalem totius* **Summerlete**, *quæ olim erat apud villam quæ dicitur* **Wella**, *&c. Hujus rei Testes sunt* **Rogerus Salesberiensis** *Episcopus*, **Willielmus Exon**, **Willielmus Winton**, **Richardus London**, **Robertus Lincoln**, **Renielmus Hereford**, **Hebeius Elien**sis, **Radulphus Cancellarius**, **Johannes Baiocensis**, **Ebrard**, **Barnardus**, **Grumbaldus Medicus**, **Gilbertus**

bertus *de* Aquila, Goisfridus *de* Magna Villa, Thomas *de Sancto* Johanne, Willielmus Peverel *de* Dovza.

Rex Willielmus Anglorum Roberto Lincoln. *Episcopo, et omnibus* Francis *et* Anglis, Lincoliæ, *salutem. Sciatis me Concessisse, quod* Osbertus *de* Lincolia *det illas undecim Bovatas Terræ, quas tenet in* Binneburc *de me Ecclesiæ S.* Mariæ Lincolniæ *in præbenda*, &c. *Testibus* Rogero *filio* Geroldi, *et* Giroldi *de Calz. apud pontem Arcars (Pont, Larch in* Normandy *) pridie post Festum Sancti* Martini. A
Monast. Angl. Vol. 3. f. 262. n. 30.

Willielmus *Rex* Anglorum *T. Vicecomiti, omnibusque fidelibus suis, salutem. Sciatis me dedisse Sanctæ* Mariæ *Ecclesiæ* Lincolniensi *et* Roberto *Episcopo Ecclesiam Sancti* Martini *cum omnibus appendiciis*, &c. *Teste Vicecomite.* Ibidem, n. 40.

B

Hen. *Rex* Angliæ, Thomæ *Archiepiscopo, et* Nigello *de* Albeni *et* Osberto *Vicecomiti et omnibus Baronibus et fidelibus* Francis *et* Anglis *de* Eberwicscira, *salutem. Sciatis me dedisse* Roberto Lincolniensi *Episcopo, Ecclesias scilicet de tribus Maneriis meis, videlicet* Cucwald, *et de* Chirchebi *et de* Honingeham, &c. *Teste* Nigello *de Albini apud* Wodestocam. Ibidem, Col. 2. n. 20.

C

Hen. *Rex* Angliæ Ranulpho Meschino, Osberto *Vicecomiti, et* Picoto *filio* Colsueni *et omnibus Baronibus suis de* Lincolia, *salutem. Sciatis me Concessisse* Roberto *Episcopo* Lincoliæ, *ut faciat exitus in Muro Castelli mei ad sua necessaria facienda ad Domum suam, ita Tamen ut propter hoc murus Debilitetur. Testibus* Alano *de* Lincolia *et* Osberto *Vicecomite apud* Londonias. Ibidem, n. 30. 40.

Hen. *Rex* Angliæ Osberto *Vicecomiti et omnibus Baronibus suis et Burgensibus Lincoliæ, salutem. Sciatis me dedisse Deo et Sanctæ* Mariæ *Linc. et Episcopo* Roberto, *et* Canonicis *vineam meam* Lincoliæ, *et quod ei pertinet, et* Johannes *præpositus eos inde saisiat. Teste W. Cancellario apud* Stanford. *Et Testibus* Eudone Dapifero, *et* Urlone *de* Abetot. Ibidem, f. 263. Col. 1. n. 20. D

Hen. *Rex* Angliæ Ran. Meschino *et* Osberto *Vicecomiti et omnibus fidelibus suis* Francis *et* Anglis *de* Lincolnscira, *salutem. Volo et præcipio, ut Sancta* Maria *de* Lincoln. *et* Robertus *Episcopus, et Canonici Sanctæ* Mariæ, *ita bene et honorifice teneant Manerium de* Welletuna, &c. *Testibus* Wald. *Cancellario, et* Urlone *de* Abetot *apud* Niwberiam. Ibidem, f. 264. Col. 1. lin. 5. E

Hen. *Rex* Angl. Roberto *Episcopo* Lincoln. *et Canonicis Sanctæ* Mariæ Lincoln. *et omnibus Baronibus* Francis *et* Anglis *de* Lincolnscira *et de* Oxfordscira *et omnibus Baronibus totius Episcopatus* Lincol. *Sciatis me Dedisse et Concessisse Deo et S.* Mariæ *et Ecclesiæ* Lincoln. *Ecclesias de* Sutton, &c. *Testibus* Gaufrido *Episcopo* Rothomagi, *et* Ran. *Cancellario apud* Hereford. Ibidem, n. 20. F

Hen. *Rex* Angl. Roberto Lincol. *Episcopo, et* Ran. Mischino, *et* Osberto *Vicecomiti et Baronibus suis et fidelibus* Francis *et* Anglis *de* Lincolnscira, *salutem. Sciatis me Concessisse Sanctæ* Mariæ *de* Lincolia

colia *Ecclesiam* Brand *Presbyteri de* Coringeham, &c. *Teste* Ran. Belchino *apud* Witetestr. Ibidem, Col. 2. lin. 5.

Hen. *Dei Gratia Rex* Angl. Roberto Cobentrensi *Episcopo, &* Ricardo *Vicecomiti &* Rogero *Comiti, &* Willielmo Peverel. & Roberto *de* Ferrariis, *& omnibus fidelibus suis de* Notinhamscira *& de* Derberelcira, *salutem. Sciatis me dedisse Deo & Sanctæ* Mariæ Lincolien. *Ecclesiæ, Ecclesias de* Derbeia *& de* * Wercheforda, &c. *in præbendam*, &c. *Testibus* Matilda *Reginâ, &* Roberto Haimonis *filio, &* Hamone Dapifero, *&* Urlone *de* Haberot, *&* Osberto *Vicecomite* Lincoliæ. Ibidem, n. 50. * *Alias* Wereſworda.

Hen. *Rex* Angliæ *omnibus Justiciariis, & Baronibus, & Vice-Comitibus, & omnibus fidelibus suis totius* Angl. *salutem. Sciatis me Concessisse* Alexandro *Episcopo* Lincolniæ, *totam tertiam partem de servitio Militum suorum de Episcopatu* Lincoliæ; *ad ponendam eam ad Castellum suum de* * Werca, &c. *Teste R. Episcopo* Sarum *&* G. Cancellario, *&* W. *de* Pontearch *apud* Blachemoram. Ibidem, f. 266. Col. 1. n. 20. * Newark Caſtle.

Hen. *Rex* Angl. *Justiciariis, Vice-Comitibus, Baronibus, & Ministris, omnibusque fidelibus suis,* Francis & Anglis *de* Lincolscira, *salutem. Sciatis me Concessisse & Confirmasse Deo & Sanctæ* Mariæ Lincol. *&* Roberto *de* Gaimbil *Canonico Villam* Asgherbi, *cum omnibus Appendiciis suis, quam scilicet* Rogerus *filius* Geroldi *dedit Deo & Sanctæ* Mariæ Lincol. *& prædicto* Roberto *in præbendam & Elemosinam*, &c. *Testibus R.* Sarum *Episcopo &* Roberto *Comite* Glocestriæ, *apud* Westmon. Ibidem, f. 267. Col. 1. lin. 7.

Stephanus *Rex* Angliæ, *Archiepiscopis & Episcopis, et Justiciariis, et Vice-Comitibus, et Baronibus, et Ministris, et omnibus fidelibus suis totius* Angliæ, *salutem. Sciatis me dedisse et concessisse Deo et Ecclesiæ beatæ* Mariæ Lincol. *in præbendam Ecclesiam de* Brampton *in terris et Decimis et omnibus aliis pertinentiis. Testibus* Ricardo *de* Luci, *et* Willielmo *de* Tatsineto, *et* Ricardo *de* Cambil *apud* Orenford. Ibidem, f. 266. Col. 1. n. 60.

Hen. *Rex* Angliæ *Dux* Normann. *et* Aquitan. *et Comes* Andegaviæ, *Justiciariis, Vicecom. et omnibus fidelibus suis,* Francis *et* Anglis *de* Lincolia, *et de* Lincolscira, *salutem*, &c. *Testibus* Rogero Eborum *Archiepiscopo, et T. Cancellario et* Richardo *de* Luci, *et* Marino *filio* Geroldi *Camerario. Et* Willielmo *filio* Haimonis, *et* Roberto *de* Duneff, *et* Jocelino *de Baillol. apud* Lincoliam. Ibidem, f. 267. n. 50. Hen. II.

Willielmus *Comes Ciceſtriæ omnibus hominibus* Francis *et* Anglis, *et omnibus Dei fidelibus*, &c. *Testibus* Johanne *Decano* Ciceſtriæ, Henrico *Cantore*, Rogero *Thesaurario*, Monaſt. Angl. Vol. 3. f. 123. Col. 2. n. 30.

Willielmus *Comes* Ciceſtriæ *omnibus Sanctis Ecclesiæ filiis, Ego concedo omnes Donationes quas Barones mei, Canonicis Ecclesiæ* Ciceſtriæ *Donaverunt vel Donaturi sunt.* Ibidem, n. 50.

This

This William *Earl* of Chicheſter was William *de* Albini, Son to that famous William *de* Albini that came in with the *Conqueror*, and was his Butler: This William was really *Earl* of Suſſex and Arundel, but from the places of his abode called ſometimes *Earl* of Arundel, and ſometimes of Chicheſter. *Dugd.* Baron. Vol. 1. f. 119. Col. 1. 2.

His Grandfather *William* Earl of *Ou*, or *Ow*, came in with the Conqueror; and though he had no Engliſh Title, yet he had Lands given him in moſt Counties in *England*. See *Append.* n. 10.

Johannes *Comes* Augenſis *omnibus Baronibus, atque omnibus hominibus ſuis* Francis *et* Anglis, *ſalutem.* This John *Earl* of Du in Normandy did acknowledge in this *Chart*, that his *Grandfather* and *Father* did unjuſtly take away and with-hold from the Church of Chicheſter, the *Mannor* of Birle, and by this *Chart* he doth reſtore it, *facta autem eſt hæc reſtitutio anno Incarnationis Dominicæ* 1148. *Teſtibus hujus Reſtitutionis præſentibus*, Roberto London, Radulpho Bathon. Simon Wigorn, *et* Roberto Exon. *Epiſcopis.* Gerbas Weſtmon. Edw. *de* Reading, *et* Galfrido *de* Waverlega *Abbatibus et aliis*, Monaſt. Angl. Vol. 3. f. 127. n. 20. A B

This was *Gilbert Giffart*, *Ibidem*, n. 40.

Rogerus *Comes de* Warwick, *omnibus Baronibus ſuis, et Burgenſibus, et hominibus ſuis de Cota et omnibus hominibus ſuis* Francis *et* Anglis, *ſalutem.* By this *Chart* he confirmed all Lands, *&c.* to the Churches of St. Maries and *All-Saints*, (I ſuppoſe in Warwic) *Teſtibus Comitiſſa*, Waltero *Capellano*, Gilberto *de Thil*, Edwino *præpoſito. Ibidem Eccleſiæ Collegiatæ*, f. 28. Col. 1. n. 20. C

Baldwinus *de* Redveriis *Comes* Devoniæ *et* Richardus *filius et hæres ejus Domino ſuo* Henrico *Epiſcopo* Wintoniæ, *et omnibus Baronibus et hominibus ſuis* Francis *et* Anglis, *ſalutem.* This *Chart* was a Confirmation of Lands given to the Monaſtery of Twynham, by his Father Richard, made *Earl* of *Devon* by Hen. I. *His Teſtibus* Lucia *Comitiſſa*, Henrico *de* Redeveriis *et* Willielmo *fratre ejus*, (theſe were two younger Sons) *et multis aliis.* Monaſt. Ang. Vol. 2. f. 180. Col. 2. n. 20. D

Robertus Warmiun *omnibus fidelibus ſuis* Francis *et* Anglis, *ſalutem.* By this *Chart* he gave Buregate to the *Monaſtery* of Bardeney, *Teſtibus* Odone Capellano, Roberto *de* Fonteney, Rogero *de* Wop, Odone *Clerico*, Roberto *de* Faleys. Ibidem, f. 850. Col. 1. n. 40. This Robert *de* Warmion came in with the *Conqueror*, and Robert *de* Fonteney, ſo named of Fonteney *Caſtle* in Normandy, was his Son and Succeſſor in the Honor of Tamworth, given to his Father by the Conqueror. *Dugd.* Baron. Vol. 1. f. 375. Col. 1. 2. E

The various Forms of Directions of Charts.

I have been thus large in ſhewing the great variety of the Directions of many Charts of our Ancient *Kings* and *Barons*, from which it ſhould ſeem they were meer forms, and nothing elſe, and never deſigned to diſtinguiſh the Extraction and Countries of thoſe to whom they were directed, ſeeing they were no ways concerned in them, as their Contents, or in point of intereſt or advantage they were to receive by them. 'Tis ſometimes ſaid, *Omnibus Baronibus ſuis* Francis *et* Anglis; ſometimes *Omnibus Baronibus ſuis*, without the additional words of Francis *et* Anglis; ſometimes *Omnibus fidelibus ſuis* Francis *et* Anglis; ſometimes only *Omnibus fidelibus ſuis.* Sometimes the direction is *Omnibus hominibus ſuis* Francis *et* Anglis; ſometimes barely *Omnibus* F

Omnibus hominibus suis; and there are as many directions in Ancient *Charts* without the words **Francis & Anglis**, as with them. Sometimes 'tis *Omnibus Baronibus & fidelibus, &c.* Sometimes to particular persons, as to the *Bishop* of the *Diocese*, and *Sheriff* of the *County*, and *Aliis* or *Cæteris Baronibus suis*. Otherwhile *Omnibus Baronibus suis*, after particular persons of such or such a Shire or County, and yet seldom or never above one or two concerned in the Grant. These Variations are argument sufficient, that they signified no more than if the Direction had been *Omnibus Christi fidelibus*, or *Universis Sanctæ Matris Ecclesiæ filiis præsentibus & futuris*; or according to these forms, *Notum sit omnibus, sciant præsentes & futuri, &c.*

But if these Directions were made with intention of a distinctive Note, between the old **English-Saxon**, and new **French** or **Norman** *Barons*, 'tis strange that after the Conqueror was firmly established in the Throne, and at the very time of making some few of these *Charts*, in and toward the end of his Reign, and of the others in the Reigns of **William** the Second, and **Henry** the First, *&c.* Not one **English-Saxon** *Baron* should be found or heard of. From whence 'tis evident, if real *Barons* were meant or intended by the words *Barones* **Franci & Angli**, the **English** *Barons* covered under those Expressions, could be no others than such as had been born in **England** of **Norman** Parents; or such as came in with the Conqueror, that had great Estates given them, and made their constant abode in **England**. And the **Norman** *Barons* no other than such as had great Estates and *Baronies* in **England**, as also they had in **Normandy**, where they either altogether, or for the most resided, and were not in **England** but upon extraordinary Occasions, and extraordinary Summons, and differed not from the others by National Paternal Descent or Extraction, but only by National Residence or Nativity, from whence they had their Denominations of French and English.

Not one English-Saxon Baron to be found among the *Barones Franci & Angli.*

To illustrate in part what is said concerning such **Normans** as were born in **England**, that they were reputed English. I will give one considerable Instance of a very considerable Person, from the Genealogy of the *Founders* of the *Priory* of **Lacock** in **Wiltshire**. *Erat quidam Miles Strenuus* **Normannus**, **Walterus** *le* **Ewrus** *Comes de* **Rosmar**, *cui propter probitatem suam* **Rex Gulielmus** *dedit totum Dominium de* **Saresburia**, *&* **Ambresburia**: *Antequam ille* **Walterus** *le* **Ewrus** *in* **Angliam** *venit, genuit* **Geroldum** *Comitem de* **Rosmar** *le* **Gros**, *qui genuit* **Gulielmum** *de* **Rosmar** *le* **Welchyn** *Secundum, qui genuit* **Gulielmum** *Tertium de* **Rosmar** *qui obiit sine liberis*; *postquam* **Walterus** *le* **Ewrus** *genuit* **Edwardum**, *Natione* **Anglicum** *Natum, postea Vicecomitem* **Wiltesl.** &c. *Dugd.* Monast. Vol. 2. f. 341. Col. 1. n. 50 60. That is, There was **Walter** *le* * **Ewrus**, or the **Lucky**, a stout **Norman** *Knight*, *Earl* of **Rosmar**, to whom for his Courage *King* **William** gave the whole Dominion of **Salisbury** and **Amesbury**: before this **Walter** came into **England**, he begot **Gerold** the Great or Dull, *Earl* of **Rosmar**, and he begat **William** *le* **Welchyn**, or the **Niggard**, the Second, who begot **William** the Third, who died without Children. Afterwards **Walter** *le* **Ewrus** begot **Edward**, by Nation born an **English** Man, who in process of time was *Viscount* or *Sheriff* of **Wiltshire**. This was **Edward** of **Salisbury**, (so named from the place of his Birth or abode) who had a great Estate in

* A Corruption of the obsolete word *Eureux*, which was used for *Heureux*, lucky or fortunate.

Wiltshire, and had Lands in Middlesex, and in Dorset, Summerset, Hertford, Buckingham and Oxfordshires, as appears by Doomsday-Book in those Counties. Ela the only Daughter, and Heir to William Son of Patrick first *Earl* of Salisbury, and Great-Grand-Child to this Edward, was Married to William Longespee Son to King Henry 2. to whom his Brother *King* Richard the First gave the *Earldom* of Rosmar as the inheritance of Ela, which came to her by the hereditary right of Edward of Salisbury Son of Walter *le* Ewrus. ibid. Col. 2. n. 10. 20. from the Register of the Priory of Lacock. A

Such Titular Barons, which were great Tenents to great Earls and Barons, were here, according to the example of *Normandy*. See *Order. Vital.* f. 810. C.

As for the *Barons* of great *Earls*, they were their great Tenents only, and but Nominal and Titular *Barons*, who held of them great Estates as 4. 5. 6. 8. 10 *Knights Fees*, &c. and they held them immediately of the *King*, and these *Titular Barons* were Normans, no Man being able to shew many English-Saxons, if any at all, that possessed any great Estates in Military *Services*, or *Knights Fees*. Yet many there were that held Estates by Rent, or other mean and base Services of the Normans, and very frequently their own Lands or part of them by new Tenure, or some part or parcels of the Lands of other Saxons that had been Dispossessed. B

But if any one can shew that any of the Witnesses to these *Charts*, or any other *Charts* of the ancient Norman *Kings*, after the middle of the Reign of William the first, were English-Saxons, or can shew any English-Saxon *Earls*, *Barons*, or *Great Men* that were in Eminent places near our ancient Norman *Kings*, or were in any *publick Trusts* and *Employments*, nay that can shew any such that had any *Considerable Estates* except one or two, who at the first coming of the Conqueror Married his *Nieces* and *Relations*, (which nevertheless continued not long in his favour) I will confess I am in the wrong. C D

Antecessor, Antecessores.

Antecessor doth not refer to Proximity of Blood or Kindred, as it used in *Doomsday*-Book.

IN the Survey of England called *Doomsday*, these words do very often occur, but they there do not signifie such an *Antecessor*, or *Ancestor* as in the *Writ* de Morte Antecessoris, the *Father*, *Uncle*, or next of *Kin* to the *Petent* or *Demandant*, to whom he was next Heir, but they signifie only a bare *Præpossessor*, one that possessed the Land before the present Possessor, without any Relation to *Blood*, or *Kindred*, and the *Antecessor* there most commonly was he that possessed the Lands in *King* Edwards time before the Conquest, yet sometime the *Antecessor* was a Norman, where the Lands had passed through two or three Hands between the time of the Conquest and the time of making the Survey; a few instances will make it clear. E F

Clamores

Clamores in Sudtredinge Lincoliæ, in great *Doomsday-Book* at the latter end.

A DE *Calumnia quam Archiepiscopus Thomas* (*Archbishop* of *York*) *faciebat, hoc est quod debebat habere,* **Socam** *super terram* **Siward Antecessoris Ivonis Talleboscl.** *Dicit Wapentach et Tredinge, quod* **Siward** *tam bene tenuit terram suam cum Saca et Soca, sicut tenuit* **Godwinus Antecessor** *Archiepiscopi, et ideo non recte clamat.* Here were **Siward** a Saxon, **Antecessor** to **Ivo Talleboscl** a **Norman**, and **Godwin, Antecessor** to *Archbishop* **Thomas**, who was a **Norman**, and *Cannon* of **Bateux**, and made his Claim in Right of his Church.

The Conqueror gave to this *Ivo Talbois* in Marriage *Lucia* the Sister of the Earls *Edwin* and *Morchar*, and with her all their Lands in *Lincolnshire*. *Ingulph.* Hist. Croyl. f. 513. a. lin. 23.

B *T. R. E. fuit* [1] *saisitus* **Almar Antecessor** *Archiepiscopi* **Thomæ** *de Soca decem Bovat. in* **Ulingham**, &c. These were no **Antecessors** in *Blood*.

[1] Ibid. *Tempore Edw. Reg.*

In **Derlincham** [2] *unus liber homo de xii Acris Val. xii d. hoc tenet* **Petrus Valoniensis** (a **Norman**) *de hoc habuit suus* **Antecessor.** *Commendationem tantum.* **Stigandus** *Socam.* And thus it is where-

[2] In the same Book in the end. Tit. *Invasiones in Nordfulc.*

C ever **Antecessor** is named, and there cannot be any pretence for Proximity of Blood and Kindred, between the **Antecessor** and **Successor.**

In the *Chart* of **William** [3] the *Conqueror*, by which he restores to St. **Pauls** in **London** all the Lands taken away in the time of his Predecessors, 'tis **Tempore Antecessorum**, who could not be *Ancestors* in *Blood* to whom he was Heir.

[3] *Dugd.* Histor. of St. *Pauls*, f. 190.

D King **Henry** the First, [4] mentioning the Customs and Rights which those that held Lands in the *Wapentachs* belonging to the *Bishop* of **Lincoln**, commanded they should do them as fully as ever they performed them to **Robert** *Bishop* of **Lincoln**, *vel alicui* **Antecessori** *suo.* This **Robert** was **Robert Bloet**, Consecrated *Bishop* of **Lincoln**, *A. D.* 1092. and died *Jan.* 10. 1122. to whom succeeded **Alexander**, Consecrated *Jul.* 22. *A. D.* 1123. and sate 24 years; they were both **Normans.** **Godwin** *de Præsul.* p. 340. 341.

[4] Cart. Hen. 1. Monast. Angl. Vol. 3. f. 262. Col. 2. n. 50.

E

The *Archbishop* of **York** in his *Chart* or *Certificate* to King **Hen. II.** how many Knights Fees he held, *in Capite*, saith thus, **Antecessores** *nostri non pro necessitate servitii quod debent, set quia Cognatis et servientibus suis providere volebant*, &c. In Lib. Rub. in Scacario, Tit. Eboracire. Here could be no Proximity, no Relation in Blood in these Cases.

F

Appeal, Appellatio, Appellum.

THe *Civilians* use the word **Appellatio**, and it most commonly signifies with them, a removing of a Cause from an Inferior to a Superior Jurisdiction. Most of the *English Lawyers*, both Antient and Modern do use the word **Appellum** from the *French* **Appel**, (who yet use it in the same sense the Civilians do.) [5] **Britton** and [5] **Stamford** say an *Appeal* is a *Plaint* which one Man makes upon another, with purpose to attaint (*i. e.* prove him Guilty) of Felony by a certain form of words conceived in his own Name, which anciently according to [6] **Bracton** were these; *A. appellat B. de morte C. fratris sui, quod sicut ipse A. & C. frater suus essent in pace Dei & Domini Regis, apud Talem locum, faciendo quoddam Tale, vel transiendo à Tali loco usque ad Talem locum, Tali die, Tali anno, & Tali hora; Venit idem B. cum talibus nominandis, & nequiter & in * Felonia, & in assultu præmeditato, & contra pacem Domini Regis ei datam, fecit idem B. prædicto fratri suo C. Unam plagam mortalem in Capite quodam Gladio, vel aliquo alio genere armorum Molutorum, ita quod obiit infra Triduum, de plaga illa; Et quod fecit hoc nequiter & in felonia, & contra pacem Domini Regis, offert se Disrationare versus eum ubicunque per Corpus suum. Sicut ille qui præsens fuit & hoc vidit, & sicut Curia Domini Regis considerat.*

That is A. appeals B. of the Death of his Brother C. That he the very A. and his Brother C. were in the peace of *God* and the *King*, at such a place (which was particularly to be named) doing such a certain thing, (which was also to be named) or passing from such a place to such a place (which were likewise particularly to be named) such a day, such a year, and such an hour, (all which were to be named) the same B. came with such, which were to be named, and wickedly and feloniously, and by premeditated (or prepensed) Assault, against the Kings peace, made a mortal wound in the head of B. his said Brother, with a certain sword, or other sharp weapon, so that he died of that Wound in three days; and that he did this wickedly, and feloniously, and against the peace of the King, he offers himself to prove it by his Body, (that is by Duel) in any place whatsoever, as he that was present and saw it, and as the Kings Court shall award, or judge. If there were any Accessories or Assistants in the Murder, then there was an **Appeal** of Force, as 'twas called, brought against them, [7] *Idem A. apellat talem de fortia quod cum ipse & C. frater suus, &c.* and then says how he bound or held his Brother, or gave other assistance whilst B. killed him.

The *Defendent* or **Apellee** was also bound to a form of words. [8] *Et B. de facto similiter venit, & Defendit omnem feloniam, & pacem Domini Regis infractam, & quicquid est contra pacem Domini Regis, & Mortem & omnia quæ versus eum * proponuntur, & totum de verbo in verbum, secundum quod contra ipsum proponitur; & tunc habebit electionem ponendi*

[5] P. 38. b. [5] Lib. 2. c. 6. p. 58. b.

[6] P. 138. a. n. 2. lib. 3. c. 19

* This is almost a Tautology; for *Felonia* is a *Gothick Feudal* word, and signifies only a great and heinous wickedness, from the word *feht*, or *feil*, *noxa*, *defectus*, *lapsus*, *peccatum*. *Locen. in Verbo.*

[7] Ibidem, n. 5.

[8] Ib. b. n. 6. * That is a Civil Law word, and *Bracton* was a Civilian, though a Judge of what was then reputed the Law of *England*.

ponendi se super [9] *patriam, vel defendendi se* [9] *per Corpus suum sic dicendo. Quod inde non est* * **Culpabilis**, *& ponit se super patriam pro Bono & Malo (si patriam elegerit) vel paratus est Defendere versus eum per Corpus suum, sicut Curia consideraverit.*

That is, and he that is **Appealed** of the fact, comes and denies all the Felony, and breach of the Kings Peace, and the Murder, and all things that were propounded (*i. e.* objected) against him, and denied the whole, word for word, as it was objected against him; and then he might have his choice, of putting himself upon the Country, or Defending himself by his Body (*i. e.* by **Battle**) by saying, **Not Guilty**, and putting himself upon the Country for Good and Bad, or for Better and Worse; Or that he was ready to make good his innocency against him by his Body, as the Kings Court should award, that is, in such manner, place and time as they should direct the Duel to be waged: and immediately **Bracton** describes the form, and manner of Waging Duel, according to the Judges Direction, and the Niceties attending it.

This was **Norman** Law, and in the *Grand Custumer*, Cap. 68. *Tit.* **Supte de Meubze**, there is the same *proces* which is contained in this and some other following Chapters of **Bracton**. There are many other **Appeals** in **Bracton**; as an **Appeal** of *Felonious* wounding against the peace, lib. 3. c. 23. in which the **Appellant** offered to prove it by his Body. [1] In this case the wound was searched; *Et designandum erit, Cujus longitudinis fuerit plaga, & cujus profunditatis, & utrum sit plaga vel* * **Rifflura**, *ad hoc quod procedat Duellum vel non procedat; ut sciri possit per factum, Utrum sit* * *Injuria vel felonia:* and it was to be discovered how long, and how deep the Wound was, and whether it was a Wound, or the Skin and Flesh was only **Riffled**, or as we now call it, **Rippled**, and that from search it might be determined whether the *Duel* should proceed or not, and that it might be known whether the Fact was a Trespass or Felony.

Another [2] **Appeal** there was of Wounding and **Maihem**, and here it was laid that the *Defendant* or **Appellee** did it *nequiter et in felonia*, and the **Appellant** *offert Disrationare versus eum, sicut homo Maihemiatus, prout curia Domini Regis consideraverit*; in this case the *Defendent* or **Appellate** had no Election, but was tryed *per patriam*, because it was granted, a *Maimed* man was not fit to maintain Battle against him, nor could not make proof by his Body, and therefore 'tis here said he offered to prove it against him as a *Maimed* man.

Another [3] **Appeal** there was of false imprisonment against the peace, and this was laid to have been done *Nequiter & in felonia*, wickedly and feloniously, *& hoc* **Apellans** *offert probare per Corpus suum vel alio modo sicut curia Domini Regis Consideraret*, and this the **Appellant** offers to prove by his Body, or otherwise as the Kings Court should direct; here the *Defendent* had his choice of Tryal by *Battle*, or the *Country*.

Another there was of [4] *Robbery* against the peace, which was laid in the **Appeal** to have been done wickedly and feloniously, &c. And in this the **Appellant** offered to prove it by his Body; and the **Apellee** had his choice of Tryal by *Duel*, or by the *Country*.

Another

[9] This was the reason why the Clerk of the Assizes asks the Prisoner when he arraigns him, How he will be tryed? * After that question, the Clerk of the Assizes says *Cul. Prit*, i. e. *Prist*, he should say *Non Cul. Prist*, if he pleads Not Guilty; that is, he takes or chuseth the Plea of *Non Culpabilis*, or Not Guilty, and he should say *Cul. Prist*, if he pleads *Culpabilis*, or Guilty

[1] Ibidem, lib. 3 c. 23. n. 2.

* In the next Chapter 'tis *Rufflura*.

* *Injuria* is another Civil Law word for Trespass.

[2] Ibidem, c. 24. n. 1. 2. An *Appeal* of Wounding & *Maihem*.

[3] Ibidem, c. 25. n. 1. 2. &c. An *Appeal* of false Imprisonment.

[4] Ibidem, c. 26. n. 1. 2. An *Appeal* of Robbery.

[5] Ibid. c. 27. An *Appeal* of Furning and Robbing.

Another [5] there was of *Wicked Burning* and *Robbing* of Houſes, the **Appeal** was laid in the ſame manner, and the *Defendent* had his choice as in others.

[6] Ibidem, c. 28. n. 2. An *Appeal* of Ravithment.

The laſt is [6] of *Rape* or *Raviſhment*. The *Appeal* was laid as others, but here was no choice for the *Defendant*, for the Woman by reaſon of her Sex could not maintain battle againſt him. In all theſe **Appeals**, the *Defendant* was to deny the **Appeal** word for word, as it was laid. A

[7] C. 67. Tit. *De Querelles.*

In the [7] *Grand Cuſtumer* of **Normandy**, theſe are called *Plaints* and *Suits* much oftner than **Appeals**. *Il ya querelle de Meudre, d'Homicide, & de Mehaing, des Treſnes Franctes: de Deſpucellement de femmes à force, de Roberie, d'aſſault de Charue, d'aſſault de Maiſon, de Trahiſon. Entre les aultres nous dirons premierement de Suyte de Meudre, Come & par quelle forme de parolles len Doibt Suyr: Et toutes telles Manieres de Suytes ſont* **Appellees** *de Felonie.* There is a *Plaint* of *Murder*, of *Homicide* or *Manſlaughter*, of *Mayhem*, of *Truce* or Peace broken, of *Raviſhment*, of *Robery*, of *Aſſault* made upon Husband-Men at Plough, or upon the Plough, of *Houſe-Breach*, and of *Treaſon*. Amongſt the others we will firſt ſpeak of Suit of Murder, how and by what form of Words it is to be proſecuted, and all ſuch manner of Suits or Proceſſes, are **Appeals** of *Felony*, and ſo the Author proceeds to the 68 Chapter which was mentioned before. **Bracton** calls Freſh Suit an **Appeal**, or at leaſt the thing for which it was made. B C

[8] Lib. 3. c. 23 n. 1. p. 144. a.

Et [8] **Appellans** *Quæſitus ſi levavit* **Clamorem** *&* **Hutesium**, *& quando venit ad Comitatum cum* **Apello** *ſuo.* And the Appellant was asked if he had levied *Hue* and *Crie*, and when he came into the County with his **Appeal**. D

[9] Lib. 14. c. 1

Glanvill [9] calls an **Appeal** an accuſation, and the **Appellor** and **Apellee**, *Accuſator* and *Accuſatus*, and gives a ſhort account of what **Bracon** ſays in many Chapters, and ſays that if the *Accuſed* or *Defendent* be ſixty years of Age and upwards, or Maimed, he ſhall be tried by *Duel*, but ſhall purge himſelf **per Dei Judicium**, by the Judgment of God, *ſcilicet per Calidum ferrum, vel per aquam, pro Diverſitate Conditionis hominum.* That is to ſay by hot *Iron*, or *Water* according to the divers Conditions of Men: *Scilicet per ferrum Calidum ſi fuerit homo liber, per Aquam ſi fuerit Ruſticus.* That is to ſay, by *hot Iron* if he were a Freeman (i. e. a *Gentleman*, or Man of Value) by Water, (that is by trying whether they would Sink or Swim, as they do *Witches*) if a *Ruſtic*, *Villain*, or ordinary *Country* Man. E

[1] Ibid. c. 3.

In an **Appeal** of Murder brought by the *Wife* in **Glanbill's** time, the Accuſed might [1] chuſe whether he would ſtand the proof of the Wife againſt him, or whether he would purge himſelf from the Crime objected to him, *per Dei Judicium*, by the Judgment of God. To the other **Appeals**, this Author adds an **Appeal** of *Treaſon* which was determined by *Duel*, Lib. 14. c. 1. F

Appeals in *Normandy* and *England* how brought.

In ſum, **Appeals** in **Normandy** and in **England** according to **Glanbill**, **Bracon**, **Britton**, &c. were ſuch *Suits* and *Plaints*, as were

were proſecuted in a ſtrict form of words preſcribed to the *Plaintiff* and *Defendant*, or **Appellor** and **Appellee**, and which was determined by *Law Apparent*, that, is Battle or Duel, and ſometimes by *Ordal*; or at leaſt it was ſuch a Suit wherein Law Apparent was allowed, and left to the choice of the Defendant. And *Quere*, Whether this *Law* of **Appeals** be Abrogated, or only Antiquated and Diſuſed?

A Sir **Edward Coke** [2] ſays **Appellum** ſignifies *Accuſation*, and therefore to **Appeal** a Man is as much as to *Accuſe* him; and in Ancient Books, he that doth **Appeal** is called *Accuſator*, and is peculiarly in legal ſignification, applyed to **Appeals** of three ſorts: Firſt of Wrong to his *Anceſtors*, whoſe Heir Male he is; and that is only of Death: The ſecond is of Wrong to the *Husband*, and is by the Wife only, of the Death of her Husband to be proſecuted: The third is of Wrongs done to the *Appellants* themſelves, as *Robery*, *Rape* and
B *Mayhem.*

[2] First Inſt. f. 287. B.

Several ſorts of *Appeals.*

In an **Appeal** of *Death*, *Robery*, *Rape*, *&c.* Sir [3] **Edward Coke** ſays the King cannot pardon the *Defendant*; for the **Appeal** is the Suit of the Party to have **Revenge** by Death. And the only reaſon aſſigned in all the Law-Books why an **Appeal** is given to the **Wife**, or next **Heir**, is **Revenge** to be taken for the Wrong. But by an Ancient *Record* the **Appeal** in *Murder* ſeems ſometimes to have been brought in
C Hopes of a *Compoſition*, and *Pecuniary* Satisfaction from the *Defendants*, which could not have been tranſacted, nor the Agreement made without the Kings Licenſe, leſt he ſhould hang up the *Murderer* after his peace made with the Party. [4] **Martinus** *de London dat Domino Regi ſexagaginta ſex Marcas duos Solidos, & tres Denarios pro Licentia Concordandi de* **Appello** *unde* **Denus Bunus** *eum* **Appellavit** *de Morte Patris ſui.* And two others gave the ſame Sum.

[3] Third Inſt. f. 237.

[4] Oblat. 1. Johan. M. 2.

D

E

Clerus

F

Clerus & Populus, Clerus & Plebs, Clerus & Vulgus, Incolæ.

The ſignification of the word *Populus*.

POpulus in it ſelf ſignifies neither great nor little People, but only *Laity*, and therefore as it is uſed and reſtrained ſignifies either the *Lay Plebs*, or the *Lay Magnates*. So **Clerus** ſometime ſignifies the *Biſhops*, ſometime the *Inferior Clergy*. [5] *Biduo poſt feſtum Apoſtolorum* **Petri & Pauli**, *miſſi ſunt Duo Cardinales à latere* **Domini Papæ**, *ut Regna* **Angliæ & Franciæ** *inter ſe, inteſtinis Odiis adhuc tumeſcentia pacificando ſedarent: Quos in regno* **Angliæ** *applicatos excepit* **Plebs** *debito honore, accita per Regem apud* **Weſtmonaſterium primatum & optimatum** *ſuorum* **Caterva**, *Nonis Auguſti.* Here the **Plebs** were the *Kings* great and chief Men, that is, his *Lay Earls* and *Barons*, which he had called to *Weſtminſter*, who ſo honourably received the two *Cardinals*.

[5] Mat. Weſtmor. f. 424. n. 30. A. D. 1295. 23 Ed. 1.

The *King* and [6] *Barons* being at ſome difference about the Obſervation of **Magna Charta** and the **Charter** of the **Foreſt**; *Articulos in prædictis Chartis Contentos, innovari inſuper & obſervari Rex mandavit, Exigendo pro hac Conceſſione ab Incolis, octavum Denarium ſibi Dari; qui mox Conceſſus eſt ei a* **Plebe**, *in ſua Camera tunc Circumſtante; petit etiam à Clero ſubſidium. Qui Reſpondit ſe velle ſummo Pontifici literas ſupplicatorias dirigere pro Conferendi Licentia obtinenda.* The *Incolæ* here meant by the *Hiſtorian* were the **Incolæ** *Regni*, ſuch Inhabitants as uſed to pay Subſidies and Aids, and the **Plebs** here mentioned by the *Hiſtorian* were the *Lay-Nobility* that ſtood about the King in his Chamber; [7] for upon a Treaty of Peace with the *Earl* of **Flanders** againſt the *French King*, he had * ſummoned the *Earls* and *Barons* to **London**, to adviſe with them about his going over into **Flanders** with an Army to the aſſiſtance of the *Earl*, and * demanded of his *Conſtable*, and his *Marſhal* the *Earls* of **Norfolk** and **Hereford**, a Roll or Liſt of ſuch Horſe as ſhould accompany him in that Expedition: they refuſe their ſervice, and deſire the *King* to aſſign ſome others of his Family to execute thoſe Offices. He did ſo, and then treated with the other *Earls* and *Barons* about an *Aid*, who urged him to the Confirmation and Obſervation of the Charters, which he granted, *Exigendo pro hac Conceſſione*, &c. *octavum Denarium, qui mox Conceſſus eſt ei à* **Plebe** *in ſua* **Camera** *Exiſtente*; [8] The two great *Earls* abſented themſelves on purpoſe, when the **Plebs** granted this Eighth of their Goods. The King gave the Earls time to conſider, and to reconcile themſelves, while he ſupported with this Grant, paſſed into **Flanders** to the relief of his Friends that both needed and expected his Relief; and on *Bartholomew* **Eve**, on the 23 of Auguſt, he ſet Sail with 500 Ships, 1800 *Knights* and *Horſe*, and a great Army of Foot. The [9] very ſame day the two *Earls* went to **Weſtminſter** to the **Barons** of the Kings *Exchequer*, and prohibited them to levy this eighth Peny of the people of **England** by the Sheriffs, ſaying it was granted without their *Knowledge*, without whoſe *aſſent* **Tallage** ought not to be impoſed. Many of the *Earls* and *Barons* Contederated with them, and much people favoured them, ſo as **Edward** the *Kings* Son and his *Vicegerent*

[6] Ibidem, f. 30. n. 40. 50. A. D. 1297. 25 Ed. 1.

Plebs were the Lay-Nobility.

[7] Ibidem, f. 429. 430.

* Ibid. f. 430. n. 20. *In Craſtino Tranſlationis beati Thomæ Martyris citatis Comitibus, & Baronibus Regni Londini*; i. e. 6 Julii A. D. 1297. 25 Ed. 1.

* *Mandante Rege ſuo Conſtabulario & ſuo Mareſchallo Comitibus Norff. & Hereford.* Theſe words immediately follow the other in the Hiſtorian, after the word *Londini*.

[8] Ibidem, f. 230. lin. 39.

[9] Ibidem, lin. 57.

gerent in his absence, renewed the great Charter of Liberties and of the Forest, at *London*, [1] his Father confirming the same at Gant on the fifth of the *Ides*, or the ninth of *November*, A. D. 1297. the 25th of his Reign. And that the Agreement for the Confirmation of the Charters here mentioned was made, and the eighth Peny granted by the *Earls* and *Barons*, and perhaps the *Knights* of Shires; and that they were the **Plebs** which stood about the *King* in his Chamber, is clear from the Writs of Summons of Parliament for two *Knights* in every County, dated *September* the 15th immediately following, to come and receive the Confirmation of the Charters, and his Letters that the paying of this eighth should not prejudice the Commons for the future, and to do further what by his Son and his Council should be ordained.

[1] Ibidem, f. 431. lin. 8.

Rex [2] *Vicecomiti* **Eboꝛum** *salutem, quia in Relevationem omnium incolarum & populi Regni nostri pro Octava omnium Bonorum singulorum Laicorum per totum Idem Regnum pro Urgentissima nunc dicti Regni contra* **Gallicos** *necessitate levanda Concessimus pro nobis & haeredibus nostris confirmare & firmiter teneri facere Magnam Chartam de Libertatibus* **Angliæ** *& Chartam de Libertatibus Foreſtæ*, &c. *Quod sine Dilatione Duos de probioribus et Legatioribus Militibus Comitatus tui eligi et ad* **Edwardum** *filium nostrum Carissimum tenentem in* **Anglia** *locum nostrum venire facias ita quod sint* **London** *in* * *Octabis Sancti* **Michaelis** *prox. futur.* &c. *Teste* **Edwardo** *filio Regis apud Sanctum* **Paulum London**, *Decimo quinto die Septembris.* And the Confirmation of the Great Charter bears [3] date *October* the 12th next following. It is not probable that if the *Commons* had been at the Agreement, and Granting of the eighth Peny in the Kings Chamber, they would have been dismissed, and called again about the same business in so short a time, seeing the Confirmation of the *Charters* was dispatched in six days, when the *Parliament* met *October* the sixth.

[2] Cl. 25 Ed. 1. m. 6. Dorſ. See the whole Writ in Append. Record 3.

*6th of Oct.

[3] Rot. Stat. Temp. Ed. 1. 2. 3. m. 40.

After the Confirmation of this *Charter*, and the *Earls* and *Barons* seemed satisfied, [4] *Concessus est Comitibus Novenarius Denarius à Vulgo, a* **Clero** *vero Denus, ad* **Scotoꝛum** *pertinaciam reprimendam*, who had then invaded **Northumberland**, and harassed the other Northern Countries. Here **Vulgus** is the same with **Populus & Plebs**, when they opposed to **Clerus**, or joyned with it as a distinct Body of Men, and **Clerus** *et* **Populus**, **Clerus** *et* **Plebs**, **Clerus** *et* **Vulgus**, are the Clergy and Laity, in the meaning of this *Historian*, whether the *Earls* and *Barons* alone, or the Temporal *Earls* and *Barons* with the *Commons* were understood by them.

[4] Mat. Westmon. f. 431. n. 10.

Clerus & Vulgus signifie the Clergy and Laity.

Dominica secunda Quadragesimæ, [4] *citatis* **Magnatibus** *Regni ad* **Westmonasterium**, *fecit Rex recitari, formam pacis Bullatam per Papam* **Bonifacium**, *tanquam Arbitrum inter Regem* **Angliæ** *et* **Franciæ** *Ordinatum, et alias Bullas statum suum tangentes. Cui Assensum præbuit* **Plebs** *omnis et* **Clerus**. *Quo facto pertierunt* **Comites**, **Barones** *et* **Prælati** *ut Magnam* **Chartam** *de Libertatibus, &c. Ratificaret.* Here 'tis plain **Plebs** signifies *Laity*, and that the *Temporal Barons* were therein comprehended.

[4] Ibidem, n. 40. 50. A. D. 1298. 26 Ed. 1.

In the morrow after Holy *Trinity*, in the 34th year of his Reign, *King* **Edward** the first made his Son Knight, and [5] *pro hac* **Militia** *filii*

[5] Ibidem, f. 55. lin. 5.

filii Regis Conceſſus eſt Regi Trigeſimus Denarius à **Populo** *et* **Clero**; **Mercatores** *vero Viceſimum Conceſſerunt.* It is evident upon [6] Record who were the **Populus**, or People intended by the Hiſtorian in this place, to wit, the **Comites**, **Barones**, *et alii* **Magnates**, *necnon* **Milites** *Comitatuum:* For it appears by that, that they all Treated together, and apart from the Citizens and Burgeſſes, and gave the *King* a *Thirtieth* part of their Goods, who therefore muſt be the **Populus** here meant. And it alſo appears by the ſame Record, that the **Citizens**, **Burgeſſes**, and **Domini**ti **Regis**, treated apart by themſelves, and gave the King a **Twentieth** part of their Moveables. *Cives quidem ac Burgenſes Civitatum ac Burgorum ac cæteri de Dominicis Regis Congregati, et ſuper præmiſſis tractatum habentes. Conſideranteſq; onera Domino Regi incumbentia ut præmittitur, eidem Domino Regi unanimiter Conceſſerunt ob cauſas ſupra dictas, viceſimam partem bonorum ſuorum Mobilium*, &c. Theſe were thoſe whom the Hiſtorian calls *Mercatores*, who gave the King a twentieth part, *&c.*

[6] *Inter Communia Brevia de Termino Sanctæ Trinitatis Anno Regni Regis Ed.* 1. 34. *penes Remem. Theſ. in Scac.* See Append. Record 4.

Fitz-Stephen ſpeaking of **Thomas Becket** when he was Chancellor of **England** under **Henry** the Second, hath theſe paſſages, [7] *Cancellarii ſummus erat in* **Clero**, **Militia**, *et* **Populo** *favor.* [8] *Cancellarius erat, Regi*, **Clero**, **Militiæ**, *et* **Populo** *acceptiſſimus.* The *Chancellor* was moſt acceptable to the *King*, **Clergy**, **Militia**, or *Military-Men*, (which then comprehended all the Nobility, great and ſmall, *Earls*, *Barons*, *Knights*, *Eſquires* and *Gentlemen*) and the **People**: In both theſe places **People** ſignifies the ordinary Lay-men; and the particularity of its ſignification, is always known by the words joyned with it, and the true underſtanding of the Matter wherein the word **Populus** is uſed, which can never be diſcovered by the meer ſound of it.

[7] Fitz-Steph. p. 4. Col. 2.
[8] Ibidem, p. 7. Col. 1.

A B C D E F

Communitas

Communitas Regni, Tota Terræ Communitas; Regni totius Communitas, Universitas Regni.

A THE *Communitas Terræ, &c.* is and hath been of late years, nay it may be for some Centuries of years, taken for the ordinary People and Freeholders, or at best for Knights and Gentlemen under the Degree of Barons; and as if they were the **Community** of the Land, and had been always so esteemed: But antiently the *Barons* only, and *Tenents in Capite*, or Military Men, were the **Community** of the Kingdom, and those only meant, taken, and reputed as such in our most Ancient Historians and Records.

Communitas Terræ not the ordinary People.

B **Hugo** [9] **Bigotus**, *Capitalis Justitiarius* **Angliæ**, *Associatis sibi* **Rogero** *de* **Turkebi**, *&* **Gilberto** *de* **Preston**, *Cæpit per* **Angliam** *Circuire, à Comitatu in Comitatum, & à Libertate in Libertatem omnibus pro meritis imponsuras Justitiam, qui quidem in Anglicanis Legibus periti in Exercendis Judiciis Justissimis, præ omnibus aliis à* **Communitate Terræ**, *ad hoc Deputantur Idonei.* These Itinerant Justices were chosen by the **Community** of the Land, which Community could be no other than the Barons: for at this time they, according to the **Oxford Provisions**, did chuse the *Justices*, *Chancellor*, *Treasurer*, and all other *Ministers* and *Officers*, both *Military* and *Civil*, and had by themselves and Friends the Custody of all the Kings *Castles*.

[9] Mat. West min. f. 367. n. 10. 20. A. D. 1259. 43 H. 3.

C

D **Richard** *de* **Gray** Constable of **Dover**, [1] *Custos Portuum ab* **Universitate Terræ** *Constitutus*; The *Barons* the year before, *viz. A. D.* 1258. 42 of *Henry* the Third, had made him Governour of **Dover** Castle, not long after the *Provisions* made at **Oxford**, and he was by them constituted Warden of the *Cinque Ports*, who in this place are called the **Universitas** *Terræ*; *Castellanus de* [2] **Dover**, **Richard** *de* **Gray** *vir fidelis & strenuus, qui ex parte Baronum ibidem Constitnebatur, &c.* In both these places no other Persons than the *Barons* can be understood, by the **Communitas Terræ**, and **Universitas Terræ**, who according to the **Oxford Provisions** made *A. D.* 1258. named all the Officers in the Kingdom.

[1] Ibid. f. 69. n. 30. A. D. 1259. 43 H. 3.

[2] Mat. Paris, f. 973. n. 40.

E In the Reign of **Richard** the First, **Mat. Paris** [3] speaking of *Earl* **John** the Kings Brother, his calling together the two *Archbishops*, all the *Bishops*, *Earls* and *Barons*, about Deposing **William** *Bishop* of **Ely** the Chancellor, he delivereth himself in these words, *Comes cum Archiepiscopis, Episcopis, Comitibus, & Baronibus in Capitulo Sancti* **Pauli** *Convenerunt, &c. ubi assensu* **Communium** *diffinitum est, &c.*

[3] F. 166. n. 30

F *Anno Regni Regis* **Henrici** *tertii* 42 [4] **Oxoniæ** *Ordinatum fuit, ut quia idem Regnum Reformatione multiplici sui status Egebat, dictus Rex pro se* 12 *personas de Regno, &* **Tota Terræ Communitas** *alios* 12 *provideren, quia Regia potestate suffulti totius Regni curam susciperent, & de Justiciariis, Cancellariis, Thesaurariis, & cæteris Officialibus, ac ministris Eligendis, ab Anno in Annum in perpetuum provideren, ejus Castra per se & suos facerent Custodiri.* And upon Record it appears, that this **Tota Terræ Communitas** was the *Barons*, or the *Proceres & Magnates*, which were the same.

[4] Mat. Westmin. f. 391. lin. 2. &c.

Tota Terræ Communitas were the Barons *Proceres & Magnates.*

[5] Pat. 42 Hen. 3. m. 10. *pro Rege & Baronagio Angl.*

Rex omnibus, &c. [5] *Noveritis nos Conceſſiſſe Proceribus & Magnatibus Regni noſtri Juramento in Animam meam per* Robertum Walerand *præſtito, quod per* 12 *fideles de Conſilio noſtro jam electos, & per alios* 12 *fideles noſtros electos ex parte procerum ipſorum qui apud* Oxon. *à feſto* Pentecoſt. *prox. futur. in unum menſem convenient. Ordinetur, Rectificetur, & Reformetur ſtatus Regni noſtri*, &c. *dat. apud* Weſtmon. 2 *die Maii.* First in this Record, as in the Margin, we see it was *pro* Rege & Baronagio, for the *King* and the *Baronage*. Secondly, we see to whom the King made the Grant, That he would 12 Persons, *&c.* that is, to Proceres & Magnates *Regni*, to the great Men of the Kingdom. Thirdly, we see to whom the King consented, that they should chuse other 12, by which 24 the Kingdom was to be reformed; and they were the Ipſi Proceres, the very same great Men first mentioned. Lastly, we see that the Record, and what the Historian delivers, was about the Business and very Matter; so that there can be no doubts but the Tota Terræ Communitas in the Historian, and the *Baronagium* or *Proceres & Magnates Regni* in the Record, were the same Persons. A B

Note, That *Easter-Day*, *A. D.* 1258. 42 of *Henry* the Third, was on the 24th of *March*, and *Whitsunday* on the 12th of *May*; so that *Barnaby*-day that year upon which the Barons met at Oxford, and made those *Provisions* called Oxford *Provisions*, was just a month after Whitsun-*Tuesday*, and agrees for time with this Record. C

Sometimes all *Tenents in Capite* under great Barons were called Community of the Kingdom.

Sometimes the Comites, & Barones Majores alone, such as were *Earls*, and great *Barons*, are called the Baronage of *England*, and by way of eminency, Proceres & Magnates; but most frequently these, with all other *Tenents in Capite*, did make the whole Body of the *Kings* immediate Tenents in Military Service, and were all together called the *Baronage* of England, the Community of the *Land*, or Community of the *Kingdom*: Yet many times the *Earls* and great *Barons* are distinguished in our Ancient Historians and Records from the less *Barons* or *Tenents in Capite*; and these last in contra-distinction to, and in respect of the first are called the Community of the *Kingdom*, or Nation. So in *King* Johns Magna Charta, the Earls and great Barons were to be summoned to great *Councils*, or *Parliaments* by particular Writs, that is, every one had a particular Writ of Summons sent to him; and the other *Tenents in Capite* were all summoned by one general Writ, and by the Sheriff of every County, to whom that general Writ was directed, and sometimes the greatest and most considerable of these were called Proceres & Magnates. D E

[6] Pat. 48 Hen. 3. m. 2. Dorſ. n. 14.

In the 48 of Henry the Third, when Montfort had the King under his power, [6] the Greivances of *Holy Church* of England were to be considered, and the Injuries done to her in the time of the Troubles redressed; and three *Bishops* were to be chosen, *per comun aſſentment du Roy & des Prelats, des Countes, & des Barons de la Tere*, by the common assent of the *Prelates*, *Earls* and *Barons* of the Land. To whom *ſoit done plein poer du Roy, e de la Comunaute des Contes, & des Barons, & des Graunz homes de la Tere*, should be given full Power from the King and the Community of the Earls, and Barons and of the great Men of the Land, to provide and order things necessary and profitable F

fitable for the full Reformation of the State of Holy Church, to the Honour of God, and the Faith of the Lord the King, and the profit of the Realm. *E ceo ſoit premis en bon foi, par le Roy, & par les Contes, e les Avandits Barons, & par les autres Graunz Homes de la Tere.* And ſo it was determined in good faith by the *King*, and by the *Earls* and the foreſaid Barons, and the other great Men of the Land: The other great Men of the Land were great *Tenents in Capite*, that were A actually neither *Earls* nor *Barons*, and theſe altogether are here eſteemed part of the **Community** of the Land, as well as they are called the *Earls*, *Barons*, and great Men of the ſame, and by putting the chief part of the *Tenents in Capite* for the whole, are oftimes called the **Community** of the Land or Kingdom.

In a [7] form of Peace, reciting an Ordinance made in a Parlement at **London** about Midſummer in the 48 of **Henry** the Third, it is B ſaid thus,* *Hæc eſt forma pacis à Domino Rege, & Domino* **Edwardo** *filio ſuo Prælatis & proceribus omnibus cum* **Communitate** *tota Regni* **Angliæ** *Communiter & concorditer approbata, Videlicet, quod quædam ordinatio facta in Parliamento* **London** *habito circa feſtum Nativitatis* **Johannis Baptiſtæ** *proximo præterito, pro pace Regni conſervanda*, &c. which form concludes thus, *Actum in Parliamento London, menſe Junii A. D.* 1264. which was the 48 of *Henry* the Third.

[7] Rot. Pat. 48 Hen. 3. m. 6. Dorſ.

* Vide Record ſ.

C This form and Ordinance here ſaid to be unanimouſly approved by all the *Prelates* and *great Men*, with the whole **Community** of **England**, (that is, **Monfort** and his Faction with ſuch Trimmers as complied with them) was made by them; For moſt certainly the King would never cauſe ſuch an Ordinance or form of Peace to be made and propounded to them as would un-King himſelf; the ſum whereof was that three Men ſhould be *nominated* or *choſen*, who ſhould have **Power** and **Authority** from the **King**, to *chuſe* or *name* **Nine Counſellors**, of which three ſhould always be with the King, and he by their D **Advice** ſhould **Order** and **Diſpoſe** of the **Government** of his **Caſtles** and **Forts**, and all other **Buſineſs** of the Kingdom; and alſo by their **Advice** ſhould chuſe his **Judges**, **Chancellor**, **Treaſurer**, and other **Officers** great and ſmall, either of the **Court** or **Kingdom**, and when any of theſe nine were to be removed, and others choſen, it was to be done by the Advice of the firſt **three Electors**, *& ſi videatur* **Communitati Prælatorum & Baronum** *Concorditer Expedire*, &c. E And if it ſhould ſeem Expedient to the **Community** of *Prelates* and *Barons*, to have all or one of the **three** firſt **nominated** or **Elected** removed, and others put in their places, *Dominus Rex per Conſilium* **Communitatis** *Prælatorum & Baronum alium vel alios ſubſtituat.* The King was to ſubſtitute another or others, by the Counſel of the **Community** of the *Prelates* and *Barons*.

Here Community refers only to Prelates and Barons.

Mathew [8] of **Weſtminſter** makes it more plain what the **Tota Communitas Regni**, the whole **Community** of the Kingdom was F that made this Ordinance, *Convenientibus* **Londini** *Prælatis, Comitibus, Baronibus, partis illius, qui Regem ſuum tam ſeditiosè tenuit Captivatum,* **Compromiſſi Lewenſis**, &c. Statuentes quod **duo Comites** & **unus Epiſcopus** (which were the *Earls* of **Leiceſter** and **Glouceſter**, and *Biſhop* of **Chicheſter**) *ex parte ipſius* **Communitatis** *Electi, novem perſonas eligerent*, &c. The *Prelates*, *Earls* and *Barons* of that Party that ſeditiouſly

[8] F. 394. lin. 3.

seditiously kept the King Prisoner, met at *London*, and unmindful of the *Compromise* at Lewis, determined that two Earls and one Bishop to be chosen on behalf of, or by that Community, should chuse Nine, &c. We see here the *Tota* Communitas *Regni Angliæ*, in the preamble to the Ordinance upon Record, was the same with the Community in the *Historian*, and they were the Community of Prelates, Earls and Barons, &c.

A

The Battle of Lewis where the King was taken prisoner, was fought *May* 19th 1264. in the 48 year of Henry the Third, and this Ordinance was made at London in *June* following after *Midsummer* day, as a short Draught of an Agreement, or form of peace, as they called their own Impositions upon the King, until a larger was drawn up, finished and Ratified; which large form of Peace, is Dated the Day before the *Vigil* of St. Gregory, that is on the 10th of *March* following, in which the Ordinance and form of Peace above mentioned is confirmed, and recited *verbatim*, except the preamble, and bears the Title of *Forma Pacis inter Regem & Barones* in the Margin of the Roll. *Le ordenement qe fu purveu à* [9] *Londre par Comun accord des* Prelats *& des* Hauz Homes *de la Tere, qi la furent en mois de Jun lan nostre Seignor le Rois* XL *utime soit fermement Garde e maintenu en form qe il estoit purveu, qe est icele.* By this Record it appears that the Tota Communitas *Regni Angliæ*, the whole Community of the Kingdom of *England*, by whose common accord the Ordinance was made at London in the Month of *June* preceding, in the 48 year of Henry the Third, were the Prelates, and the Hauz Homes, that is, the great Men of the Land, or Men of High Condition. Hitherto the Prelates, Earls, and Barons, or the Prelates, and Great Men, or the Prelates, and Hauz Homes, Men of High Condition by Record and History, have appeared to be the Community of the Kingdom.

B

C

[9] Rot. Cart. 49 Hen. 3. m. 5. In Append. Record. 6.

In the first Paragraph of this Record, after the Recital of the Ordinance made at London, &c. *E qe cest Ordonement soit Mieux Garde, nostre Seignor le Roi, doit comander e enjoindre, e Monseur* Edward *assentir e Requere as* Hauz Homes, *e au Comun de la tere, par lur Lettres Overtes qe demorrent in Chescun Conte qe cest Ordonement fermement tenguent.* And that this Ordinance may the better be observed, our Lord the King shall command and enjoyn, and *Mounsieur* Edward Assent and Require, the Great Men, (that is, the *Bishops*, *Earls*, and *Barons*) and the Commons of the Land, by their *Letters Patents*, which are to remain in every County, that they firmly keep this Ordinance. In one of these Letters Patents, or Charts, sent into Yorkshire, it is evident, that the *Prelates*, *Earls*, *Barons*, and Community of the Kingdom, and the *Prelates*, *Earls*, and *Barons*, without those words, the Community of the Kingdom, signified the same thing, or that the Community of the Kingdom signified very little, if any thing, as to the Transacting of Publick Affairs in those days.

D

E

F

[1] Rot. Cart. 49 Hen. 3 m. 4.

Rex [1] *omnibus de Comitatu* Eborum *salutem. Cum propter hostilem Turbationem habitam in Regno nostro de unanimi assensu & voluntate nostra &* Edwardi *filii nostri Primogeniti,* Prælatorum, Comitum, Baronum, *&* Communitatis *Regni nostri, pro Regni ipsius pace, pro cujus securitate dictus* Edwardus, *&* Henricus *filius Regis* Alemaniæ *Nepos noster obsides dati fuerunt concorditer sit provisum quod quædam Ordinatio*

tio de unánimi assensu nostro, Prælatorum, Comitum & Baronum Prædictorum *super nostro & Regni nostri statu.* London *mense Junii Anno Regni nostri* 48° *facta inviolabiliter observetur.* Here the Prælati, Comites, & Barones prædicti, must be the same with the Prælati, Comites, Barones, & Communitas *Regni*, immediately preceding, or the Communitas Regni, had nothing to do in making the *Ordinance* at *London* in the Month of *June* concerning the State of the Kingdom, and yet in the preamble of it 'tis said they had.

A little further in the same *Record* 'tis said, The *King* and his Son *Edward* swore, and the great Men, and the *Commons* of the Land by the *Kings* Command, and the assent and request of his Son, swore to do and keep these as aforesaid. *E nostre Seignor le Roi e Monseur* Edward *unt Jure sur les seintes Evangelis, e les* Hauz Homes, *e le* Comun *de la tere Jurront par Comandment nostre Seignor le Roi, e par lassentment e la Request Munsir* Edward, *ices choses à fere e à tenir si com il est avantdit:* And then it follows, That if any Man do disturb the Peace of the Nation, or do any thing contrary to this form of peace, or assist the King and his Son in doing any thing contrary to it, &c. Then he and his Heirs, shall be for ever disinherited as if they were convicted of Felony; and the next words in this same Record are *e ceste Chose est fermement Establi par le Roi & Munsir* Edward, *e par le* * Comun *de la Tere.* And this was firmly established by the King and *Monseur* Edward, and by the *Commons* of the Land. Here 'tis said that the King, his Son Edward, and the *Commons* of the Land only made this Establishment. Can any Man think that the *Prelates*, *Earls*, and *Barons* were not present and consenting to the making of this part of the form of peace? 'Tis said in the [2] Charts or Letters Patents directed to the County of Middlesex for the Observation of both by King Henry and Prince Edward his Son, that *De unanimi nostro assensu,* Edwardi *filii nostri,* Comitum, Baronum, & Communitatis *Regni provisum & Statutum est,* &c. *& quod ipse, & hæredes sui inperpetuum Exhæredentur, & de Terris & Tenementis eorum fiat, prout de Terris eorum qui pro* Felonia *Convicti sunt.* So we see that in this part of the Record, *Comun de la Tere*, or *Community* of the Land comprehended the Prelates, Earls, and Barons, and in other parts of it, the Prelates, Earls, and Barons, were mentioned as the Community of the Land.

It follows in the same form of peace between the *King* and *Barons*. *E les Articles qe estoient despeca porveues par Accord nostre Seignor le Roi e dez* * Hauz Homes *de la Tere les queus nostre Seignor le Roi, nadgeres quant il estoit à* Wirecestre *envoia par toz les Contees de souz son seel sont fermement tenuz,* &c. And that the * Articles made by Accord of the *King* and the Hauz Homes of the Land, the which the King when he was lately at Worcester, sent into all the Counties under his Seal that they might be firmly observed. The Hauz Homes here mentioned are rendred in Latin Magnates in the fore-cited Letters Patents of both father and son for the observation of this form of peace. *Et omnes Articuli de nostro &* Magnatum *terræ nostræ Communi assensu dudum provisi quos nuper apud* [3] Wigorniam *Existentes per singulos Comitatus sub sigillo nostro transmisimus inviolabiliter observentur.*

Again

* In this place *Community* of the Land signifies the Bishops, Earls, Barons and great Men, or these establishments were made without them, which is a contradiction to both these Records. [2] Rot. Cart. 49 Hen. 3. Community of the Land comprehended *Prelates, Earls* and *Barons.*

* *Hauz Homes* the same with *Magnates.*
* These Articles were dated at *Worcester, Dec.* 13. *A. D.* 1264. 49 of *Hen.* 3. and do contain a great part of the Law of *England*, as it then was.
[3] Rot. Cart. 49 Hen. 3. m. 4.

Again, it was agreed in the same form of Peace, that the King, nor his Son Edward should bring any strangers into the Nation, without the assent of the Kings Council, or other discreet and knowing Men of the Land. *Derechef qe nostre Seignor le Roi ne Munsir* Edward *ne atreent mie Genz aliens en la Tere si ce ne soit par Accord du Conseil le Roi e des autres* Prodes Homes *de la Tere.* The Prodes Homes must be the same with discreet and knowing *Fideles* or *Magnates*, and they were for rank, degree, and order, such as were of the Kings Council, (and not ordinary Men) for 'tis here said with relation to them, *E des* Autres prodes Homes *de la Tere*, and other Prodes Homes of the land. And the Kings Council here meant, were Nine of the greatest Persons which were most fixed and resolute in the Rebellion of Montfort and his *Confederates*, and were chosen by three such as themselves, as is clear beyond all Cavil, from the express words of the form of Peace made in the month of *June* at London, in the 48 year of Henry the Third, A. D. 1264. here recited in this *French* Record. *Ad Reformationem Status Regni Eligantur seu nominentur tres* Discreti *viri &* Fideles *de Regno qui habeant potestatem & auctoritatem à Domino Rege* Eligendi *seu* Nominandi *vice Domini Regis* Consiliarios Novem, &c. These *Tres* Discreti *et* Fideles, three discreet and well affected, (who were Montfort, the *Earl* of Gloucester, and the *Bishop* of Chichester, three of the prime Rebels at that time) do answer exactly to the Prodes Homes in this French Record, which being a corruption of the French preuds Hommes, signifying *Valiant, Hardy, Couragious, Faithful, Discreet Men*, for so did Montforts Party and Faction call themselves, as our late *Mescreants* called themselves the *Sober Godly* Party, and the Well-affected.

Here is enough said to satisfie any reasonable Man, what the Community of the Kingdom was, and that the Hauz Homes, and Prodes Homes, often found in our old *French Records*, were at least part of, if not the same with that Community. But to put the matter beyond all doubt and Exception, I will Confirm what I have said about the Community of the Kingdom by other plain Records.

[4] See the whole Record in the Answer to Mr. *Petyt*, f. 149. A. *De intendendo Collection. Auxilii.*

The [4] first is Pat. 30. Edward 1. M. 1. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis de Comitatu* Cantiæ *salutem, Sciatis quod cum primo die Junii Anno Regni nostri Decimo Octavo, Prælati, Comites, Barones & Cæteri Magnates de Regno nostro concorditer pro se &* Tota Communitate *ejusdem Regni in pleno Parliamento nostro nobis Concesserint, Quadraginta Solidos de Singulis feodis Militum in Dicto Regno in Auxilium ad primogenitam filiam nostram Maritandam, &c. Cujus quidem Auxilii levationi faciendæ pro Dictæ* Communitatis *aisiamento hucusque supersedimus gratiosè*, &c. The King to *Archbishops, Bishops, Earls, Barons, Knights*, and all *others* of the County of Kent, Greeting. Know ye, That on the first day of *June*, in the 18 year of our Reign, the *Prelates, Earls, Barons*, and the rest of the great Men of our Kingdom, by one Assent for themselves, and the whole Community of the same Kingdom, granted to us Forty shillings of every Knights Fee in the said Kingdom for an Aid to Marry our Eldest Daughter, &c. which Aid we have hitherto graciously forborn to Levy for the Ease of the said Community, &c. By this Record it is very clear, that such as paid *Scutage*, that is, Forty Shillings for a Knights Fee, were the Tota *Regni* Communitas

The *Tota Regni Communitas* paid Scutage.

Communitas, and no others: And of these the *Tenents in Capite* granted and paid it first for themselves and Tenents, and then their Tenents in Military Service, by virtue of the Kings Precept paid it to them for so many Fees as they held of them, as hath been sufficiently evinced by Record in the *Answer* to Mr. *Petyt*, f. 121. B. C. D. &c.

The [5] second is a Record in the *Exchequer*, by which it appears that the *King* summoned a *Parliament* in the 34th year of his Reign, to meet in the Morrow of the *Holy Trinity*, about an Aid for making his Son Knight, and assistance against Robert Bruce, who had raised forces against him in Scotland. And the *Prelates*, *Earls*, *Barons*, and other great Men, as also the [*⁎*] *Knights* of Shires treating together with deliberation upon this Matter, considering the Aid was due, and the Burthen that lay upon the King by reason of the Scotch War, at length they unanimously *Domini Regi concesserunt pro se & Tota* Communitate *Regni* tricesimam *partem omnium Bonorum suorum Temporalium Mobilium*, for making his Son *Knight*, and toward the Expences of his War in Scotland. And then Cives & Burgenses *Civitatum ac Burgorum ac cæteri de* Dominicis *Regis Congregati*; and treating about the Premises, considering the Burthens lying upon the *King*, (not mentioning any Aid for making his Son Knight, as not holding of the *King* by *Knights* Fee or Service, and therefore none of the Community of the Kingdom, nor liable to it) *eidem Domino Regi unanimiter ob causas supra dictas* vicesimam *partem bonorum suorum Mobilium*; Granted to the *King* the Twentieth part of their Moveables. Here the *Prelates*, *Earls*, *Barons*, and *Great Men*, with the *Knights* of Shires, *Consulted together*, and gave for themselves, and the Community of the Kingdom, a *Thirtieth* part of their Goods; and the *Citizens*, *Burgesses* and *Tenents* of the Kings Demeasns, which were none of the Community of the Kingdom, gave a [*] *Twentieth* part: For if they had been of the Community, they had paid no more than a Thirtieth part, that is, a *third* less than a Twentieth. And therefore 'tis most certain at this time they were not taken to be part of the Community of the Kingdom, unless they paid both a Twentieth and Thirtieth part of their Goods; and that the *Tenents in* Capite, *Serjeants*, or at least the Military *Men*, and *Tenents* in Military *Service*, were only such.

[5] See it here in the Append. Record 4.

And [6] this is confirmed by another Record of the 35th of this King, for the Collecting of this Thirtieth and Twentieth part: *Rex Militibus, liberis Hominibus, & Toti* Communitati *Comitatus* Middlesex *tam infra libertates quam extra, salutem: Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, Liberi homines, ac* Communitates *Comitatuum Regni nostri* Tricesimam *omnium Bonorum suorum temporalium Mobilium, Civesque, & Burgenses, ac* Communitates *omnium Civitatum, & Burgorum ejusdem Regni, necnon* Tenentes *de Dominicis nostris* Vicesimam *Bonorum suorum Mobilium, &c. Curialiter Concesserint et gratanter*, &c.

[6] See Append. Record 7

[*⁎*] The only reason why the Knights of Shires treated together with the Bishops, Abbats, Priors, Earls, Barons and great Men apart from the Citizens and Burgesses, in granting Taxes, was because they all were of the same Order, that is, *Tenents in Capite*, though not of the same Degree, *viz.* all Earls and great Barons or great Men, that is, the greatest of those Men that were not great Barons, or the greatest of the *Barones Minores*, the lesser Barons.

[*] It was usual in those times for the Citizens and Burgesses to grant a third part more than the Earls, Barons, and Knights of Shires: probably the reason might be, because they performed not Military Service, nor paid Scutage.

It's said in this Record the *Archbishops*, *Bishops*, *Earls*, *Barons*, *Abbats*, *Priors*, *Knights* and *Freemen*, and **Communities** of *Counties*, gave a Thirtieth part of their Goods, as if they were all Members, and sate in this *Parliament*: And so it is said of the *Cities* and *Burghs*, that the *Citizens*, *Burgesses*, and the *Communities* of the *Cities* and *Burghs*, gave a Twentieth part of their Moveables as if they had been all there. But these words signifie no more, than that the *Knights* and *Freemen* gave by their *Representatives*, and that the *Communities* of *Counties*, and the *Citizens* and *Burgesses*, and *Communities* of *Cities* and *Burghs* gave by their *Representatives*, as is most clear from the Writ of Expences for the *Knights* of **Lincolnshire**, [7] *Rex Vicecom.* **Lincoln** *salutem. Præcipimus tibi quod de* **Communitate** *Comitatus tui tam infra Libertates quam extra habere facias dilectis & fidelibus nostris* **Johanni** *de* **Nevill** *&* **Ranulpho** *de* **Friskeney** **Militibus** *ejusdem Comitatus nup r ad nos pro* **Communitate** *prædicta usque* **Westminster** *de Mandato nostro venientibus ibidem, nobiscum super quibusdam negotiis nos &* **Statum** *Regni nostri specialiter tangentibus tractaturis* **Rationabiles Expensas** *suas in* **veniendo** *ad nos, ibidem* **Morando** *& exinde ad propria* **redeundo**, *prout alias in casu Consimili fieri consuevit. Teste Rege apud Westmon. Triceſimo die Maii.* The 30th of *May* was this year 1306. *Cras Trinitatis*, *Easter-Day* being *April* the third. This *Parliament* was summoned to meet [8] *Crastino Trinitatis*, on the Morrow after *Trinity*, so as they dispatched the Business they met for in less than one day; and besides the Date of the Writ for Expences that proves it, **Math. Westminster** says all the Military Men took their leaves of the King that day, and promised to be with him in *Scotland* fifteen days after St. *John Baptist*, [9] *Exinde omnes salutato Rege, in Crastino Trinitatis à* **Westmonasterio** *recesserunt, ad Regem in Quindena Sancti* **Johannis Baptistæ** *in* **Scotiam** *affuturi.*

At his Coronation **Edward** the Second was asked this Question; [1] *Sire, Grante vous à tenir & Garder les Leyes & les Customes Droiturels les quieles la* **Comunaute** *de Vostre* **Roiaume** *aura Eslu, & les Defendres, & afforceres al honeur de Dieu à vostre poer?*

He answered upon Oath, *Jeo les Graunte, & Promette.*

In this Roll is set down the whole manner of **Edward** the Second's Coronation: The three great *Earls*, **Thomas** of **Lancaster**, **Guy** of **Warwick**, and **Henry Lacy** of **Lincoln**, who were very popular, pretending to do wonderful things for the Liberty and Freedom of the *Laity*, carried three Swords before him, and **Thomas** of **Lancaster** the Sword called **Curtana**, *&c.* And it follows in the close of all, *Ita fuerunt verba Regis in Coronatione prædicta, sub Juramento præstito ut patet in Cedula annexa*; so were the Kings words at his Coronation under Oath, (never in the same form and words given to any King before, nor perhaps ever since.) The first thing asked him was, *Sire, volez vous Granter & Garder & per vostre Serment Confermer au* **People** *de* **Angleterre**, *les Leyes & les Customes a eux grantees par les aunciens Rois d'***Engleterre**, *vous Predecessors Droiturs D. votz à Dieu, & nomement les Loys, les Customes, & les Franchises Graunte au* **Clergie** *& au* **People** *par le glorieux Roi* **Edward** *vostre Predecessor?* Sir, Will you grant and keep, and by your Oath confirm to the People of *England*, the Laws and Customs granted to them by the Ancient Kings of *England* your Predecessors, true and devout to God, and namely the *Laws*, and *Customs* and *Franchises* granted to the **Clergy** and **People** by the Glorious King **Edward** your Predecessor.

Respons.

[7] Claus. 34 Ed. 1. m. 11. Dors.

[8] See the Writ of Summons, Cl. 34 Ed. 1. m. 15. in Cedula.

[9] F. 455. lin. 3.

[1] Claus. 1 Ed. 2. m. 10. Dors.

Reſponſ. Jeo les Grant & Promette. I Grant and Promiſe.

Sire, Garderez vous à Dieu & Sainct Egliſe, & au **Clergie** *& au* **People** *pacs & accord en Dieu entirement ſolonc voſtre poer?* Sir, will you keep to God and Holy Church, and to the **Clergy** and **People** Peace and Accord in God intirely according to your power?

Reſponſ. Jeo les Garderai. I will keep them.

A *Sire, Freez* (or perhaps rather) *feres vous fair en touz voz Jugements ove le Droit, Juſtice, & diſcretion en miſericorde & verite à voſtre poer?* Sir, Will you ſuffer all your Judgments to be done with Right, Juſtice, and Diſcretion, in Mercy and Truth to your power?

Reſponſ. Jeo le Frai, I will do it.

The laſt queſtion put to him, was, that which I firſt mentioned, and is thus truly Rendred in Engliſh. Sir, Do you Grant to hold the
B juſt Laws and Cuſtoms which the **Community** of your Kingdom ſhall have choſen, (the words aura **Eſlu** cannot fairly be otherwiſe tranſlated) and them defend, and inforce, to the Honour of God according to your power?

Anſwer. I Grant and Promiſe.

The **Community** here intended, was the **Community** of *Biſhops, Abbats, Priors, Earls, Barons, great Men,* and the whole Body of
C the *Tenents in Capite,* expreſſed by thoſe words in the former Queſtions **Clergy** and **People**. For by them theſe Demands were made, and no doubt but they would firſt for themſelves; for the **Vulgus**, Multitude or Rabble, could not come near to make their Demands at ſuch a Solemnity as this was, ſo great and ſplendid; there being at it [2] **Charles**, and **Lewis** *Earl* of **Clermont**, two of the King of **France** his Brothers, the **Duke** of **Brabant**, the **Earl** of **Feng**, and the other great Men both of **France** and **England**, with the *Counteſs*
D of **Artois**.

[2] Walſingh. f. 95. n. 20.

And that the **Comunaute** *de* **Roiaume**, the **Community** of the *Kingdom*, did ſtill *continue* to be ſuch perſons as above mentioned, is clearly proved by this Record. *Rex* [3] *dilectis & fidelibus ſuis Vicecomiti* **Wygornie** **Thome Botiller** *de Upton ſuper Sabrinam Militi, &* **Thome Talſy** *de* **Wych**, *ſalutem. Sciatis quod cum in pleno Parliamento noſtro apud* **Weſtmonaſterium** *ad Diem Lunæ proximo poſt feſtum Nativitatis Beatæ* **Marie** *virginis proximo præteritum tento,* **Prælati, Comites, Barones, &** **Cæteri Magnates** *de Regno noſtro* **Angliæ**, &c. *pro ſe, &* **Tota Communitate** *ejuſdem Regni nobis Conceſſerint quadraginta ſolidos de ſingulis* **Feodis Militum** *in Dicto Regno* **Angliæ**, &c. The whole **Community** of *England* in this Record were * Military Men, ſuch as held **Knights** *Fees*, or parts of **Knights** *Fees*, and ſuch as paid Scutage, and they were neither the *Ordinary Freemen*, or *Freeholders*, nor the Multitude, nor Rabble.
F Though the words *les Leyes & les Cuſtomes, les quieles la* **Comunaute** *aura Eſlu*, have been very ignorantly rendred, *Leges & Conſuetudines quas* **Vulgus** *Elegerit*, to the great Confuſion and Miſchief of this Nation in the beginning of the late Troubles, as they were made uſe of and interpreted by *malicious, ignorant,* and *deſperate* Men, as will be ſhewn in the diſcovery of the meaning of the next words.

[3] Rot. Fin. 20 Ed. 3. m. 7. See Append. Record 8.

* *Circa feſtum Sancti Michaelis Haſtiludium Commiſſum eſt apud* Brakele *ubi multi de Militibus univerſitatis Regni, qui ſe volunt Bachelarios appellari convicti ſunt* Paris, f. 768. n. 50. A. D. 1249.

Elected, Election, Electus, Electio, Elegerit.

LEges & Consuetudines quas **Vulgus Elegerit**, as *les Leyes & Customes les quieles, la* **Communaute aura Eſlu**, the words in the *French Record*, cl. 1 *Ed.* 2. M. 10. are commonly Tranſlated. Mr. A
* **Pryn** and the *popular men* would have **Elegerit** here to be in the future tence, and have it ſignifie **ſhall chuſe**, and ſo as to bind the King as he could not refuſe ſuch Laws as were offered him by the *Parliament*, (for ſo he would have **Vulgus** ſignifie) and by theſe almoſt only words to prove the King had no **Negative** Voice. Others ſay the King was bound before this to ratifie the Laws the people *propounded*, and ſo they erect and place a Soveraingty in the people, which they would have to be the *very* **Vulgar**. But 'tis impoſſible Mr. *Pryn's* ſenſe of **Elegerit** B
can ever be allowed, for the Original words **aura Eſlu**, can fairly admit of no other Rendering than, **ſhall have choſen**, that is, ſuch *Laws* and *Cuſtoms* as they **had already** choſen, and for thoſe that would have it in the *Option* of the **Vulgar** to propound Laws to our King which they **Could** not **Deny** to confirm, they never looked further than theſe words, nor never underſtood them. For **aura Eſlu** here ſignifies no more then that the **Community** had received ſuch Laws from the *Ancient Kings*, and owned, and ſubmitted to them, C
and that they were ſuch as they asked, and by way of demand, or rather Propoſals, requeſted him to obſerve and keep; and this meaning of the words doth moſt naturally ariſe from the firſt queſtion by way of Propoſal. Sir, Will you Grant and keep, and by your Oath confirm to the **people** of **England**, the *Laws* and *Cuſtoms Granted* by the *Ancient Kings* of **England**, your Predeceſſors, juſt and devout to God, and namely the **Laws** and **Cuſtoms** and the **Franchiſes** Granted to the **Clergy** and **people** by the glorious *King* **Edward** your Predeceſſor? 'Tis plain from theſe words that they do acknowledge to D
have *had* and *received*, their *Laws*, *Cuſtoms*, and *Franchiſes* from the Kings of *England*; and the words **aura Eſlu** ſignifie no more, than that the King would hold, keep and defend ſuch *Laws* and *Cuſtoms* as the **Community** of the Realm, had *choſen*, that is, *owned*, *ſubmitted* unto, and *Deſired* ſtill to *uſe*. And whatever practices by uſe time out of mind, have grown into Cuſtoms, for the better management of affairs, and conveniency between Man and Man, (for that's E
the foundation of all Cuſtoms) all the Nation over; or in any particular *County*, *Hundred*, *Town*, *City* or *Burgh*, without intrenchment upon the Government, have by permiſſion or ſufferance become Laws, it is nothing to the purpoſe of our preſent matter, as having never been preſented to the King; for had they been ſo, and received his **Fiat**, they had been Laws, by his *Conceſſion*, and no *Cuſtoms*.

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[4] Gervas. in Act. Pont. Cantuar. Col. 1653. lin. 7.
[5] Order. vit. f. 519. A.

Lanfrancus [4] *Eccleſiam Cantuarienſem ſuſcepit regendam*, **Eligentibus** *eum ſenioribus ejuſdem Eccleſiæ cum Epiſcopis & Principibus*, **Clero** & **populo Angliæ** *in curia Regis in Aſſumptione ſanctæ Mariæ*; *Cathedra Cantuarienſis*, [5] **Lanfranco** *Cadomenſium Abbati decreta eſt*, *Regis & omnium optimatum benevola Electione.* As to the Seniors of the Church *chuſing* **Lanfranc**, they did by order and direction from **William**

Election only a ſubmiſſion or acknowledgment.

* In his Book of Treachery and Diſloyalty, &c.

William the *Conqueror*, and their proceeding no other than it is now by the Chapter of other Churches upon a *Conge de Eslire*, they could not refuse him. And for the *Bishops* and *Noblemens* chusing him, they only *owned* and *submitted* to him, or *liked* him, and were *satisfied* with the person. And that it was so, we have these Authorities, **Florence of Worcester** [6] says, *Rex de* **Normannia** *accito* **Lanfranco** *Cadomensi Abbate, Die Assumptionis Sanctæ* **Mariæ** *Archiepiscopum* **constituit** *Cantuariensis Ecclesiæ, & in festo Sancti Johannis* **Baptistæ** *Consecrari fecit* **Cantuariæ.** The *King* called **Lanfranc** *Abbat* of **Caen** out of **Normandy**, *appointed* him to be *Archbishop* of **Canterbury**, and *made* him be Consecrated on the Feast of St. *John Baptist.* The same words hath **Simon of Durham**, Col. 202. n. 50. and *Hoveden*, f. 260. a. n. 10. and Ralph de Dicæto, Col. 483. n. 10. also **John Brompton**, Col. 968. n. 40. **Malmsbury** to the same effect, [7] **A Willielmo Rege Lanfrancus** *Cadomensis Abbas ad Archiepiscopatum* **Electus** *est*, notwithstanding he had no Competitors. *Electus est* signifies no more here than that King *William* appointed and ordered he should be Archbishop of *Canterbury*.

[6] F. 636. 637

[7] De Gest. Pontif. f. 116. b. n. 30.

Concerning **Anselm, Gervase of Canterbury** [8] says, **Anselmus** *Abbas Beccensis qui tunc in* **Anglia** *Ordini Beccensi subditas visitabat Ecclesias* **Electus** *est nonis Martii*, &c. *In pastorem Ecclesiæ Cantuariensis Ecclesiæ*, &c. **Anselm** *Abbat* of **Bec** *being in* **England** to visit the Churches belonging to that Monastery, was chosen *Archbishop* of **Canterbury** on the 7th of *March*, &c. **Eadmer** from fol. 16. n. 40. to f. 21. and **Malmsbury** de *Gest. Pontif. f.* 124. a. b. both tell the manner of his being made *Archbishop*, and say it was by the *King* alone; but the *Bishops* pressing him to accept that Office, and the people shouting he is there said to be *Elected*. *Rex* **Gulielmus** *junior dedit* **Anselmo** *Dorobernensem Archiepiscopatum*, so **Florence of Worcester**, f. 645. *A. D.* 1093. **Simon of Durham** hath the same words, Col. 218. lin. 5. *Rex* **Willielmus Anselmo** *Beccensi Abbati Doroberneusem Archiepiscopatum concessit.* So **Ralph** de Diceto, Col. 491. n. 10. *Rex* **Willielmus Anno** *Regni sui quinto Archiepiscopatum Cantuariensem Sancto* **Anselmo** *Beccensi Abbati venerabili viro dedit*, Col. 987. n. 50. *Rex* **Willielmus** *junior dedit Archiepiscopatum Cantuariensem* **Anselmo** *Abbati Beccensi viro venerabili. Mat. Paris, f.* 17. *n.* 20.

[8] Act. Pontif. Col. 1656. n. 10.

William the *Treasurer* of the Church of **York** was chosen *Arch-Bishop*, by the major part of the Chapter, the *Arch-Deacon* of the Church **Henry Murdac** makes a faction amongst the *Clerks* and *Cannons* the *Electors*, and hindered **Williams** Consecration. *Archilevita Discidium inter Eligentes Excitavit ipsum* **Willielmum** *à Saniori parte* **Electum** *impediens, licet de ejus* **Electione Clerus** *&* **Populus** *acclamassent laudum præconia, Brompt.* Col. 1029. n. 10. The *Pope* set aside this **William** upon an *Appeal*, and Consecrates **Hen. Murdac**, after whose Death **William** was *chosen* again; and there being a great Crowd of People at his *Election*, they brake down the Wooden Bridge over the *River Ouse*. *Quod cum Audisset sanctissimus Pater* **Willielmus** *fusa cum lachrymis Oratione ad Dominum, ne pro eo Deum laudantes profundum obsorberet, submersos signo Crucis signavit & mox Orationis suæ virtute universos à periculo Mortis succurrente Divina pietate liberavit.* Thom. Stubs Act. Pontif. Eborac. Col. 1722. n. 20. 'Tis frequently said

said in old Historians, That *Bishops*, *Archbishops* especially, were *chosen* by the Clergy and People, though they did nothing more than hollow and shout, or perhaps sing *Te Deum laudamus* when the Election was declared: And there will never want Company to make a noise, where there is plenty of good Drink and Victuals, as there always was at these times.

The old Monks said every one was Elected that had not an Hereditary Title; and though he was set up by the Art or Violence of a Faction, or *obtained* the Crown by *Force* and *Arms* without Title, [*] yet according to them he was Elected, when as the People only *received* and *submitted* unto them, when they could not help it, and it may be because there was much shouting, and many Acclamations at his Reception. *Anno Domini* 1607. *Dux* Normanniæ Willielmus *Civitatem* London *æ ingressus cum magno Gaudio à* Clero *&* Populo *susceptus, & ab hominibus* Rex acclamatus, *& in die natali Domini in Regem est Coronatus, Lib. Prioratus de Spalding, f.* 29. *b.* See the Stories of *King* Harold, Hen. I. and *King* Stephen in the History of the Succession, how they obtained the Crown by Fraud and Violence, and yet by several old Monks they are said to be Elected for the Reasons just now mentioned.

And for the same Reasons they said some of our Kings that had undoubted *Hereditary Titles*, and succeeded accordingly, were Elected. So the [9] Chronicle of Normandy of *King* Henry the Second. Henricus *Dux* Normannorum *in* Angliam *transfretans vii. Idus Decembris*, (that is, the seventh of *December*) *cum magno Tripudio Clericorum & Laicorum exceptus est*, 14 *Calendarum Januarii*, (that is, on the 19th of December) *Die Dominica ante Nativitatem Domini apud* Westmonasterium, *ab omnibus* Electus *& in Regem unctus est à* Theobaldo *Archiepiscopo* Cantuariensi. So likewise [1] *Ralph de Diceto*, *Dux* Normannorum Henricus 14. *Calendarum Januarii Die Dominica ante Natale Domini apud* Westmonasterium *ab omnibus* Electus, *& in Regem unctus est à* Theobaldo *Archiepiscopo Cantuariensi.* And after the same Rate they speak of others; though in any of them, or any where else, there is not to be found any solemn meeting or preparations for the Election of any King, or the least footsteps of any form of Election. Yet notwithstanding *ignorant*, *malicious* Men will make use of such Testimonies as these, without examining the probability of them, when by their small Arts they plant their Batteries against the Government, though there be better Authorities to the contrary; as in this case [2] Roger Hoveden speaking of the Death of *King* Stephen, says, *Cui* Henricus *Dux* Normannorum *filius* Matildis *Imperatricis successit in Regnum Coronatus & in Regem Consecratus, &c.* Insinuating his *Hereditary Title* as the Son of Maud the Empress. Accordingly John [3] Brompton, Stephano *ut dictum est defuncto* Henricus *Secundus Filius Imperatricis à* Theobaldo

[9] F. 990. C. A.D. 1154.

[1] Col. 529. n. 10.

[2] F. 281. a. n. 40.

[3] Col. 1043. n. 40.

[*] According to their Judgment if he favoured holy Church, that is, let the Clergy Govern, then they Celebrated him; if otherwise, they Exposed him: And these Cloystered Men who wrote all then, (for few others could write or read) made a Prince good or bad as the Rabble do now, according as he pleased their humour, and were Beneficent to them; and there was, nor could be any end of pleasing generally the silly Monks then, more than there can be of the Multitude now. The Rabble hath all their pretences from them.

in

in Regem Consecratur. Hereditariumque Regnum sine Diminutione susscepit Congaudentibus & Conclamantibus Turbis Vivat Rex. Paris reports the same thing, [4] *Dux igitur Henricus 7 Id. Decembris in* Angliam *veniens cum magno* Cleri *&* Populi *tripudio* Exceptus est *&* 14 *Calendarum Januarii apud* Westmonasterium *ab omnibus Rex* Acclamatus, *à* Theobaldo *Archiepiscopo Cantuariensi in Regem consecratur.* And in *Parlement King* Stephan upon the Agreement made between him, A and this King Henry doth acknowledge he had the *hereditary right* and *Title*, and that by his Concession he was to possess the Crown during his Life, [5] *Rex* Stephanus, *Recognovit in Conventu* Episcoporum *&* *aliorum de Regno* Optimatum *quod Dux* Henricus Jus Hæreditarium *in Regnum* Angliæ *habebat, & Dux benigne Concessit ut Rex* Stephanus *tota vita sua* suum *Regnum pacifice possideret. King* Stephen *acknowleged* in a Meeting of the *Bishops* and *Chief Men* of the Kingdom, That *Duke* Henry had the *Hereditary Right* to the Kingdom, and that B he kindly granted he should possess his Kingdom during his Life.

[4] F. 92. n. 20.

[5] Mat. Westminster f. 264. n. 10. A. D. 1153.

Sometimes Election, and the words Electio, and Electus, are used for *Rejection* and *refusing*, and a *submitting* to what cannot be refused, as in the Election of Jury's (as 'tis called) nothing more frequent in the old plea Rolls as Jurata Electa, Assiza Electa, & Juratores *à partibus* Electi, or Utrinque Electi; before tryal. In an C action of Trespass [6] between the *Abbat* of St. Albans, and Geofrey *de* Childewicke and others before William *Provost* of Beverly, Henry of Bath, Roger de Turkeby, & Gilbert de Preslura, *Justices Itinerant*, 'tis said [7] Jurata de Consensu partium *venit recognitura per* Petrum *de* Thaly, Willielmum Rebel, &c. There also *Duodecim* Milites *gladiis* Cincti *fuerunt* Electi *in Assisa de* Consensu partium, The *Knights* were the *Jury* or *Recognitors* above named, Glanvil, lib. 13. c. 7. *ab initio* Eligendi *sunt duodecim liberi & legales homines de visineto secundum formam in brevi Expressam*, speaking of D the *Petents* and *Tenents* chusing of them, where see more of this matter, Bracton, lib. 4. c. 19. n. 3. *Et Sciendum est quod si semel de Consensu partium* Eligantur Juratores *ulterius recusari non possunt.* In this Chapter he tells the *Exceptions* which lie against the *Jurors*, and why they may be challenged or *Refused*. But they can only *Challenge* or *Refuse* a *Certain Number*; and they must stand to the *Verdict* of the others. The *Sheriff* in very deed maketh the *Pannell* and *chuseth* the *Juries*, and yet they are said to be Elected by *consent* of the *Par*E *ties*, *Plaintiff* and *Defendant*. Here is no Act of positive and deliberate consent, such as is required and implyed in an Election.

[6] Mat. Paris, f. 538. n. 10. 20. &c. A. D. 1240. 24 H. 3.

[7] Ibidem, f. 539. lin. 4.

By the Original *Laws*, *Grants*, and first Institution of *Beneficia*, or *Fees*, (as they were afterwards called) they were *revokeable* at the *Will* of the *Lord*, *Patron*, or *Donor*, when he pleased. And at any time, when he would, might *take* them *away* from the *Beneficiary*, *Feudatary*, or *Possessor*. Afterwards they were granted for a Year, F and then for the *life* of the *Feudatary* or *Vassal*. When in process of time they became Successive, and passed to the *Sons* of the *Possessor*; but so, if he had more Sons than one, the *Lord* gave the *Fee* to which he pleased: From hence, by degrees, they became Hereditary, and passed also to *Women*; But, as at first they were given, so they always remained under *Conditions* of Fidelity, Fealty, or *Faithfulness* to the *Lord*, and Military Service when he commanded it; and answerable

Spelman's Glossary, fol. 565. Col. 1. from the Books of the *Feudal-Law.*

See *Hottoman*, *Cujacius Cragius*, *&c.*

Fees in process of time became Successive; And Hereditary. Ibidem.

able to these *Conditions* there were two ways of losing Fees, *Breach* of *Trust*, which was called **Felony**, and varied according to the difference of places, in some for *lesser*, in others for *greater* **ingratitude**, the **Fee** was *forfeited*; and for *want*, or *defect* of **Service**, the **Fee** or Land given for it, *returned* to the *Lord*; and in case of an *Infant*, or *Woman*, who were neither of them *fit* to *perform* **Military Service**, yet it was thought unjust they should lose their *Fee*, or *Estate*. Therefore they or their *Estates* were in **Guard**, or **Ward** to the *Lord*, and were called his **Wards**, and the **Service** by him provided for, until the *Male-Infant* was of *Age*, and trained up to, and made *fit* for the **Service** he was to perform: Or the **Woman** by his consent had taken such a **Husband**, of whose *Fidelity*, he was assured, and by whom she might perform the *Service*, which by *virtue* of her *Fee* she was bound to. But if the *Heirs*, or *Successors* were of age, they paid *Reliefs*, which in *Feudal Latin* were called **Relevia**, **Relevamenta**, **Relevationes**, because, by them, they took up again the *Fees*, or *Lands*, which were fallen by the *Death*, or *Forfeiture* of the *Feudatary*. Sometimes they were called **Introitus**, or **Ingressus**, and they were but an *honorary Gift* to the *Lord* by his *New-Vassal*, for his *Entry* upon his *Land* or *Fee*, perhaps not much unlike that of our **Copy-holders Fine**.

Wards.

Marriages.

Hottom. in verbo Relevium.

A

B

This Feudal Law, obtained in most *Nations* of *Europe*, and in **Normandy** was in its *full vigor* at the time of the coming over of the **Conqueror**, but afterwards grew more *mild* and *qualified*, as also the *Tenure* its self, a perfect *description* of which, with all its incidents, of **Homage**, **Relief**, **Ward**, **Marriage**, **Escuage**, **Aydes**, &c. are to be found in the **Grand Customer**, Cap. 29, 33, 34, 35. and although there were **Military Feifs**, or *Fees*, here in the *Saxon times*, yet not in such *manner* as after the *Conquest* established here by **William the Conqueror**, and according to the *usage* in **Normandy**; when as it appears by **Dooms-Day** *Book* in *every County* he divided most, if not all the Land of *England* amongst his **Normans** and *Followers*.

The Feudal Tenure in most European Nations.

Spelm. Gloss. fol. 68. col. 2. fol. 218. col. 1. Seld. Tit. Hon. Edit. in Quarto, Pa. 300. 301. Bacons Elements, Trea. 2. p. 30. Som. Gavelkind, in Append. script. 21. p. 210. * Here in Append. Record 1. Glossar. fol. 214, 215.

C

D

But besides the two *former ways* of **Forfeiture**, there were many others which * Sir *Henry Spelman* hath collected from the **Feudists** and **Feudal Laws**, and some of them do here follow. Originally, all **Vassals** held their Lands at the *Will* of the *Lord*, and whether they were *Delinquents*, or not, he might at his *pleasure*, take them from them. In point of **Tenure** they were much like our Ancient **Copyholds**, at meer will; and in this of **Forfeiture** they much resembled them, and those also at this day.

E

It was a *Forfeiture*, if *thrice summoned* to the *Lords Court*, they neglected, or refused to come and *take* up their Lands and do **Fealty**. If they *refused* to do their *Service*, or *denyed* their *Tenure*, it was a *Forfeiture*. If they *sold* their Estates without leave of the Lord, or if they *sold* it by any other *title* than they had themselves, it was a *Forfeiture*. If they did any thing against their *Oath* of *Fealty*, if they adhered to their *Lords Enemies*, or did *forsake* him in time of *War*, or *danger*, all these were *Forfeitures*. If they *committed* any outragious *wickedness*, which was called **Felony**, as **Murder**, **Robery**, **Burning** of houses, **Rape**, &c. and which was no **Treason**, this likewise

Vid. Hott. de Feud. Disp. c. 38. col. 886. D. E. &c. Several ways of forfeiting of Fees.

F

wise was a *Forfeiture* of their *Lands* and *Estates* to the *Lord* of the *Fee*. And by committing *Felony*, and the *Non-performance* of the most of those things, upon **Condition** the *Tenents* at this day *Forfeit* their *Lands*, and they *escheat* to the *Lord*, some by *presentment* of the **Homage**, others *immediately* where the *Fact* is *notorious*.

Coke compleat Copyholder, Sect. 57. 58. *Kitchin*, Tit. Copyholder.

A It will make much to the further understanding of *Knights Fees*, and the *Forfeitures*, and other *incidents* belonging to them, to give a brief account of the *Institution* of *Maners* here in this *Nation*, as I find it in our Learned *Glossarist*, who says it was a **Norman** *word*, and brought from thence; and what the **Saxon** called a *Prædium*, or *Villa*, their Possessions in Land, with the enjoyment of *Soc*, *Sac*, *Tol*, *Team*, and other *Privileges*, the **Normans** called *Maners a manendo*, because such *Possessions* were *Ordinarily* the *Seats* of the *Lords*. The *Saxon Jurisdictions* had their *Origen* from the *Grants* of their *Kings*, but **Maners** had their beginning from **Feudal** *Law* or *Right*: For *whoever* B could *dispose* of *Fees*, might justly *give Laws* to their *Vassals*, erect *Courts*, and take upon them all other *Priviledges pertaining* to a **Noble Fee.**

Fol. 309. The first Institution of Maners.

Maner from whence derived.

They were Feudal.

He further says at the beginning, this was the *course* of Instituting **Maners**; for the most part *different Lords* possessed the *Territories* of every *Town*, or *Village*, and *cultivated* it by their *Servants*, *Vassals*, C and *Husbandmen*; for at that time there were living in the *Country*, only **Military** *Men*, *Labourers*, or *Husbandmen*. *First*, the *Lord* designed the *place* of his own *Habitation*, and annexed to it a plentiful *portion* of *Land* for the *Maintenance* of his Family, which are yet called **Terre Dominice**, *Demesn Lands*. Another share he gave to his *Vassal*, or *Vassals*, for their *Aid* and *Assistance* in *War*, and they were called **Knights Fees**, or **Military Fees**, which, if they were not sufficient for the maintenance of one *Soldier*, yet according to the D quantity of Land they enjoyed, they contributed such a share as was agreed for, [*] *half*, a *third*, a *fourth*, or less part according to the *smallness* of the *portion* of the *Fee* granted towards the *Lords* **Military** Expences.

How they were instituted.

Ibidem. For maintenance of their Horse and Arms.

A third part he distributed to such as performed all *Rustick* and *Servile* Works, *Repaired* his *Houses*, *Plowed* and *Sowed* his *Land*, *Reaped* his *Crop*, *Carried* it into the *Barn*, *Threshed* it, *Digged*, *Hedged*, and E took *Care* of his *Flocks* and *Fields*. The *Precincts* of his Distribution were *Governed* by such *Laws* as the *Lords* imposed; and as all their **Estates** arose from his **Beneficence**, so they depended on his Will: hence so many several **Customs in several Maners.**

Ibidem. Base Tenure.

Whence several Customs in several Maners.

The *Lords* House was the **Aula, Hall,** or **Court**, and all the *Tenants*, if need required, were bound to attend there every *three weeks*, but *generally* at the *Feast* of the *Annunciation* and St. *Michael*, from F whence these Courts, kept at those times, were called **Curie generales**, or general Courts.

Grand Custom of Normandy, Chap. 34. 35. 53. & every where in our ancient Lawyers and Historians.

[*] I rather think Fees were entire at first, and the Division of them happened either from the Poverty of the Tenant, or his dividing it amongst his Children by leave of the Lord, for which there was a Composition paid, as in Copyholds at this day.

Hot. de Feud. Disp.c.10.830. D. They might straighten, but not inlarge the Condition of the Fee. *Ibidem,c.53.

These Lords of Maners, or small **Baronies**, held either *in Capite* of the *King*, or most commonly of other *great* **Barons**, as of their **Honours**, or *Heads* of their **Baronies**, by the same **Tenures**, and under the same **Forfeitures**; and these in like manner of the *King in* **Capite**: for by the **Feudal** *Law*, **Sub-Fees** were to be *given*, and *received* according to the *Laws* of the first *Institution* of the *Capital*, *Royal*, or *Great Fees*, which held *immediately* of the *Prince*; and therefore as the *Inferior* or lowest *Lords** had their *Courts* for *adjusting* all *matters within* the *Jurisdiction* of their **Maners**, so had those of a *middle* rank within their *Jurisdiction*, for such of these *Inferior Lords*, or *others*, as held of their **Baronies**. A

Lords of Maners ought suit to the Courts of mean Barons.

And likewise the *Capital Barons* had their Courts within their *Jurisdiction*, in which, *all*, or *most matters* relating to, and arising between their *Tenents*, were *ordered* and *decided*. And they were not only *held* at the *chief seats* of their **Honours** or **Baronies**, but perhaps all over *England*, where they had any considerable *Lands* or *Possessions*. As the **Honor** of *Richmond*, *Honor* of *Glouceſter* and *Clare*, *Dutchy* of *Lancaſter*, *&c.* have at this day their several *Courts* for determining *Controversies* and *Suits* within their *Jurisdiction*, of matters of small value. B

And they to the Courts of great Barons on whom they held.

Glanvil, lib.1. c.3. And great Barons to the Exchequer or Knights Court

Lastly, These great *Barons* were within the *Jurisdiction* of the *Kings Court*, which was then the *Exchequer*, where *all Pleas* concerning their *Baronies* were terminated: The **Conqueror** gave to some of his greatest *Followers* Titles of whole *Counties*, and to some two and three *Counties*, with a great proportion of Lands in them; to others some part or portion of a *County*, as *Hundreds*, or a *greater* or *lesser* share, who *parcelled* them out to their *Dependents* and *Friends*, and they *again* to theirs, till at last the *Soldiers* and *Ordinary Men* had some *proportionable share* for their *Services*, though upon hard Conditions, possessing them for the most part as *Feudataries*, and according to the *Rules* of the *Feudal* Law, which was the *Law* for the most part in *Normandy*, as to *Possession* and *Tenure*. C D

The Lands of *England* parcelled out, and distributed by the Conqueror.

Seldens Tit. Hon. fol. 572.

These *Knights Fees* were not all of the *same* value, but some *greater*, some *lesser*, according to the *Beneficence* of the *King*, or *those* that held of him *in Capite*, to their *Tenents* in *Military Service*, or *Sub-Feudataries*: some were *scanty Allowances*, for their *Performances* and *Services*; others were *plentiful*, much more than would make good the *Service*; and then by the *Kings Licence* they Let part of those Lands to **Fee-Farm**, so called, because a **Farm-Rent** is reserved upon a *Grant* in a *Fee*: And *Britton* says they were *Lands* held in *Fee*, which answered the yearly value. Upon which **Tenements**, no **Homage**, **Ward**, **Marriage**, or **Relief** could be *Demanded* without special *Reservation* in Writing, or by the *same Licence* changed part of their **Capite**, or **Knights-Service** *Lands* into **Frank-Farms**, which were *Lands* and *Tenements*, of which, the *Nature* of the *Fee* was changed by *Feoffment*, from **Chivalry**, or **Military** *Service*, for *certain Services* by the year, for which **Homage**, **Ward**, **Marriage**, or **Relief**, or other Service could not be demanded, that was not contained in the Feoffment. Hence most of our **Freeholds**, and the *Rents* called **Free-Rents**, due to **Lords** of **Maners**; and hence the ordinary **Libere Tenentes**, which in those days were not always *Freemen*; for E F

All Maners not of the same extent and value. Magna Charta, c.3?.

Pag.164.b.n 4

Fee-Farms.

Ibidem, a.n.3. Frank-Farms or Tenements

for a **Tenement** changeth not the *Condition* of a *Freeman*, or *Servant*, or *Villan*. A *Freeman* might hold *pure Villanage*, and yet *remain free*; and a *Bondman* might hold by *free Services*, and yet be a *Bondman*. *Quia Tenementum nihil confert vel detrahit personæ*; for that a *Tenement*, or *Possession*, neither *added* to, or *detracted* from the *person* of any Man, if *free* or *bond*, according to his *Blood* or *Extraction*.

Bracton. lib. 2. c. 8. n. 3. A Free-Tenent might be by blood a Bondman. Ibidem, n. 1.

A From these **Military** *Fees* or *Possessions*, the **Milites** had their Names, *Nam Miles* (says Sir *Hen. Spelman*) *quem* **Baronem** *vocabant, non à Militari cingulo, quo Equites creabantur, sed à Militari feodo* (*quo alias* **Possessor** *&* **Libere Tenens** *nuncupatus est*) *Nomen sumpsit.* For a *Miles* which was called a **Baron**, took not his *Name* from the *Military Girdle*, with which *Knights* were *Created*, but from the *Military Fee*, by *reason* of which he was otherwise called a *Possessor* or *Free-Tenent*; and so Camden, **Milites** *primo apud nos appellati fuerunt,* B *qui* **Prædia Beneficiaria** *Tenuerunt ut* **Militarent.** They were first called with us *Milites*, which because they went to Warfare, had *Lands* given them. And many *Tenents in Capite* there were, who had scanty Fees, or only parts of *Fees*, or that desired not Knighthood, and had Compounded or Fined that they might not be made Knights, that were not actual Knights, who were called Free-Tenents or Free-holders. This is evident from several Writs in the Appendix, Record 9. 10. 11. And these with the *Knights* were the **Communitas Regni**, C when mentioned after **Earls**, **Barons**, and **Magnates** in old Records, and after that manner distinguished from them.

Gloss. fol. 72. col. 1. Milites why so called.

Britan. fol. 123

Many Free-holders Tenents in Capite that were not Knights. See Append. Record. 9. 10. 11.

Possessors of *Parts*, and *Members* of Knights Fees without doubt there were many, which had *Court* and *Jurisdiction* and *Services* belonging to them; for these Priviledges were extended to an eighth part of a Fee, and the Division of a Fee as far as an eighth part, was called a *Member* of Fee; hence so many small Maners. Fees were further D divided even to a fortieth part, but then they enjoyed not those Privileges. *Grand. Custum.* of *Normandy*, c. 33. *Crag. de Feud. f.* 72.

Members of Fees.

Not but most, if not all the **Great Barons**, as also the *Tenents in Capite*, and some others that held *many Knights Fees* of **mean** *Lords*, and were *possessed* of great *Estates*, were actually [*] Knights, created by Ceremony; that is, they were *Baltheo Militari cincti*, or *Ornati*, Girt by the King with the **Military** or *Soldiers Belt*, as the Custom was in those times, when it was *reputed* a very great *Honor* to be so E *Knighted* or *Girt*; and from *hence*, as well as from their *Fees*, **Barons** were frequently stiled **Milites**, and **Chivalers**, as *Selden* assures us, that in the Writs of Summons to *Parliaments*, *Pleadings*, and other *Legal Instruments*, most regularly the word **Baron** is wholly *omitted*, and usually *Chivaler* supplies it, as an *Addition* in the *Parliament Writs* to the *Temporal* **Barons.** And from the **Pipe-Rolls** in the time of *Henry* the Second, he says they had *Heads de* **Scutagiis** *Baronum Angliæ, de exercitu Walliæ, & de Scutagiis Baronum qui non abierunt* F *cum Rege in exercitu Galweiæ, de Scutagiis Baronum qui non abierunt, nec Milites nec Denarios Miserunt ad exercitum Hiberniæ, Galweiæ,*

Tit. Hon. fol. 571. Rot. Mag. 20. Hen. 2. in Buckingh. &c. Seld. Tit. Hon. fol. 574. Note, The Tenents in Capite are called the Barons of England in the Pipe-Rolls and were the same persons.

[*] Men that held great Estates of great *Tenents in Capite*, as 5, 6, 7, 8, 9, 10. or more Knights Fees, were Titular Barons, and called by such great *Tenents in Capite*, their Barons; but were not *Barones Regni*, or *Parliamentary* or *Great Council Barons*, as I have shewn elsewhere.

Walliæ; that is, of the *Scutages* of the *Barons* of *England*, of the *Army* of *Wales*, of the *Scutages* of the *Barons* which went not with the King in the Army against the *Scots*; of the *Scutages* of the *Barons*, who went not in, nor sent their Milites, or *Money* to the *Army* of *Ireland*, *Scotland*, *Wales*. And says further, that under those *Heads* the Names of the Barons of the Counties, where the Heads are placed, occur together with the number of the *Knights*, (or *Knights Fees*) for which they paid their * Escuages; and the same kind of *Tenents* in Chief, or Barons, are oft-times also in the Rolls of the same time indifferently called Milites, in Heads of the same Syllables, saving that Militum supplies Baronum, which agrees with the use of the later Ages, wherein Miles and Chevaler have been so *proper* and *usual* in the *Expression* of them. Thus far *Selden*, whom I have rather cited than the *Rolls* themselves, because with some Men his *Authority* is greater. A

* Escuage or Scutage service was a Fine or Composition paid to the King, when the Knights upon Summons to War, were Excused from performance of their Service.

But further, That Miles was a frequent Title given to our *great* Earls and Barons, take these few Instances, in stead of great numbers out of History. B

Mat. Westm. fol. 366. n. 10. A. D. 1259. Great Earls called Milites.

Circa Kalendas vero Aprilis ex præcepto Regis, & totius Baronagii *Consilio, arripuerunt iter transmarinum ad* Parliamentum *magnum Domini Regis Franciæ, pro pluribus arduis negotiis,* Regna Franciæ *&* Angliæ *contingentibus,* Comes Glovern. *&* Leceſtr. *Dominus* Johannes Mansel, Petrus *de* Sabaudia, *&* Robertus Wallerand Milites, *habentes potestatem componendi & pacem inter eos firmiorem ineundi, si idem* Rex Franciæ *pacta præcedentia, ut prælocutum fuerat inter speciales nuntios suos, & Regem* Angliæ *inviolabilia satageret conservari.* C

Ibidem, 395. n. 23. 30. Slain at Evesham. Great Barons called Milites.

Simon Comes Leycestr. Hen. *filius ejus,* Hugo Dispenlator *Justitiarius Angl.* Petrus *de* Monte forti, Guliel. *de* Mandevilla, Rad. Basset, Roger *de* Sancto Johanne, Walterus *de* Creppings, Guil. *de* Eboracо, *&* Robertus Tregos, Barones *&* Milites *præpotentes*; All slain in the Battel of *Evesham.* D

Ibidem, 399. n. 50.

Miles Egregius *Dux* Edwardus, said of the *Prince:*

Paris, fol. 997. n. 30. Ibid. 996. n. 50.

Defendens omnes Gilbertus *Milites nobiles de* Marchia *quorum supra facta est mentio:* These were Rogerus *de* Mortuo Mari, James Audeley, Roger *de* Letburn, Roger *de* Clifford, Haimo *le* Strange, *&* Hugo *de* Turbivile, and *others*, all *great* and *considerable Barons* in the *Marches* of *Wales.* E

F

Feudatarii,

Feudatarii, Fideles.

A *Feudatarius qui* **Feudum** *à Patrono sibi commissum accepit*, and was the same that **Beneficiarius**, and **Beneficium** the same that **Feudum**, for **Feudum** & **Feudatarius** came in use in stead of them. He was one that received *Land* of any *Lord* to do him **Service** for it, and did him **Homage** and **Fealty** for the *Lands* he held of him, and **Services** he was to do him. Hottom. in verbis Feud. col. 924. D. Printed 1599.

Fideles *interdum generaliter dicuntur, qui in Principis alicujus Potestate & Ditione sunt, qui vulgo subjecti appellantur.* Sometimes they are taken for *Subjects* in General. Ibidem.

B *Interdum specialiter dicuntur iidem qui* **Vasalli.** *Qui feudo accepto in patroni fide & Clientela sunt, vicissimque suam ei certi obsequii nomine fidem astrinxerunt*; Sometimes they are the same with **Vassals**, who having received *Fees*, are in the *Retinue* of some *Patron* or *Lord*, and have pledged their Faith to do him certain Services. In this last sense, as well as in the first, the word **Fideles** often occurs in antient *Historians* and *Records*. Ibidem, col. 925. A.

C **Willielmo** *filio Hen.* 1. *Cum vix* 12 *annorum esset omnes* **liberi homines**, &c. *Cujuscunque* **ordinis & dignitatis**, *Cujuscunque Domini* **Fideles** *manibus & Sacramento se dedere coacti sunt.* Malmsb. fol. 93. a. n. 30.

D *Rex* **Baronibus, Militibus** & *omnibus* **Fidelibus** *totius Angliæ salutem.* These were to hear what the *Bishop* of *Winchester* was to say to them about the *Releasing* the *Interdict*, and that these **Fideles** were the Kings **Tenents in Capite**, is clear from the *later part* of this *Record*. *Unicuique* **vestrum** *si fieri potest, literas nostras super hoc transmisimus, sed ut negotium majori festinatione*, &c. *Teste Meipso apud Rupell. vi. Die Martii.* The King had writ to them all particularly but that the business required great hast. Before *Magna Charta* this King sent special summons and particular letters to his *Barons* and other *Tenents in Capite* to meet upon any occasion, which was granted *June* the 15th, in the 17th of his Reign. Pat. 15. Johannis p. 2. m. 2. n. 9.

E *Rex omnibus Comitibus, Baronibus, Militibus & aliis* **Fidelibus** *suis de Com. Ebor. Northumbr. Cumbr. &c. vobis Mandamus quod prompti sitis & parati cum* **Equis & Armis**, &c. These were *Feudataries*, and *Tenents* in **Military** *Service.* Cl. 42. Hen. 3. m. 19. Dors.

Rex dilecto & **Fideli** *suo* **Rogero** *le* **Bigot**, *Com. Norff. ut cum* **Equis & Armis**, & **servitio** *vestro, &c. Eodem modo mandatum est*, to 130 *Barons* and *Tenents in Capite.* Cl. 47 Hen. 3. m. 7. Dors.

F *Rex dilectis &* **Fidelibus** *suis Militibus &* **liberis hominibus** *de Com. Southampton, Mandantes Rogamus ad nos sitis cum* **Equis & Armis**, *&c.* Pat. 48 Hen. 3. m. 18. Dors.

Rex Vicecom. Northumbr. &c. cum dilecti & **Fideles** *nostri Johannes de Baylol, Petrus de Brus, Radulph. filius Ranulphi & Socii sui.* These Cl. 50 Hen. 3. m. 9. Dors.

These were *Barons* and *Tenents* in *Capite*. See Dugd. Baronage, Tome 1.

And that the **Fideles** were such as here described in the meaning of the *Feudal Law*, See *Cujacius* de Feud. lib. 1. Tit. 17. *De successione & Culpis Militis* **Fidelis**. *Tit.* 22. *De investitura quam facit Dominus sine consensu* **Fidelis**, Tit. 23. *Ut Miles* **Fidelis** *de possessione feudi non ejiciatur sine culpa.* Tit. 24. *Si Dominus investituram feudi negaverit, cum* **Fidelis** *est in possessione feudi*, lib. 2. Tit. 19. *Si de investitura feudi Contentio fuerit inter Dominum &* **Fidelem**, Tit. 20. *Si inter Dominum &* **Fidelem** *de feudo fuerit Quæstio*, lib. 4. Tit. 100. *Impetratorem feudum amittere, vel alium pro se* **Fidelem** *dare:* In all which places, **Fidelis** and **Feudatarius**, or *Feudal Vassal* are the same.

Ut omnes **Episcopi, Abbates, Abbatissæ, Optimates** *&* **Comites** *seu* **Domestici** *&* **Cuncti Fideles** *qui* **Beneficia Regalia** *habere videntur*, &c. Capit. Caroli Magni, lib. 1. c. 132. very often the word is to be found in this sense in these *Capitularies*, and in the *Lombard Laws*, and in all the **Feudists** especially.

The meaning of this word **Fideles**, as also of these words *Liberi homines*, *Libere Tenentes*, &c. is to be known from the Subject Matter where they are used, and the words with which they are joyned in *Construction*, which will give us the true sense of them where-ever we meet them.

Folke-

Folke-Mote.

SIR *Henry Spelman* tells us concerning the **Folke-Mote**, that every May-Day yearly, as in an Annual Parliament, as well the *Chief* A of the Realm, as the *Bishops*, *Magistrates* and *Freemen* met. The *Lay-Men* were sworn to defend one another, sware *Fealty* to the King, and to preserve the Laws of the Kingdom, they consulted of common *Safety*, *Peace* and *War*, and the Publick Benefit. As to the time of Meeting by the words he uses, he should have taken that out of the *Auctuarie* of the 35 Law of *Edward* the *Confessor*, where it is said There was also a *Meeting* of like Nature for chusing of *Sheriffs*, and *Heretochs*, and other *Officers*, and dispatch of some other business, which B were indeed the ancient **Sheriffs Turns**. But whereso'ever he had the later part of his description of a *Folke-Mote*, though I have a great veneration for the very *name* of Sir *Henry Spelman*, I am sure it could not be so; if we may rely upon the *Saxon Laws*, **Gif Hon on Folces-gemot Cyninges gerefan ge-yppe Eokat, and his elt gelwican will, gestele on rihtran hand gif he mege: gif he ne Mage Tholge his angyldes.** If any Man in Folk-Mot declares concerning a Debt before the Kings *Provost*, or *Officer*, and ceases from that Declaration, C to put it into a *righter hand* or way of *Dispatch*, he shall *lose* his *amends* or *Satisfaction*. *LL.* Alured. c. 22.

Eac is Ceapmannum geriht tha men the hi opmid heom Ledath. Gebringan beforan Cyninges gerefan on Folc-gemote; and gerecce hu Maniga thera syn, et he nimen tha men mid heom, the hig Magon eft to Folc-Gemote to riht Gebringan; et thonne heom Theark sy ma manna up mid heom to hebbanne on heora fore, ge- D **cythe symble swa oft swa Theark sy on Gemotes gewytnysse Cyninges Gerefan.** Also it is the *Merchants* right, that the Men he carries with him he bring before the *Kings Reve* in **Folk-Mote**, and reckon how many there are, and then he may take those Men with him, which he may afterwards bring to Justice in the **Folk-Mote**, and then if there be necessity for him to have more Men with him than heretofore, he shall shew them always before the *Kings Reve* in the **Gemot**, or under *Testimony* of the *Gemote*, so oft as need shall be. E These **Folc-Gemots** were held before the *Kings Gerefe*, who we never read was *permitted*, or had any **Commission** to treat of *Peace*, or *War*, *Public Safety*, or *Benefit*. Nor is it probable the *Merchants* could bring their Men before such *great Meetings* only *twice* in a year, for they must either *lose* their *Voyages*, or these *Meetings* must be called to take a *View* of every *Merchants Men*, neither of which I think are *probable*, and therefore I take the **Folk-Motes** in the *Saxons* time to be an *Inferior Court*, and may be it was the *Monthly Court*, as this F *Law* not very obscurely seems to hint to us. **It Wille that elc Gerefa hebbe Gemot a ymb Feower wncan and ge don that elc Man sy Folc rihts wyrthe and elc syret hebbe end.** Ibid. m, *LL.* 30

LL. Ed. Sen. c. 11.

I will, That every *Reve* have a *Gemot* always about *four weeks* distance, and do, that each Man have **Folcright**, and that each Squabble have an end.

And

LL. Athelſtan, c. 2.

And we Cwedon be them blaford leaſum mannum. The nan Man nan riht et begytan ne meg. That Man bude there meg the that hi hine to riht gehamette et him blaford funden on Folk-Gemote. And we ſay, concerning *Lord-leſs* Men, againſt which no Man can have *right*, that his Kindred be commanded to bring him to *right*, and *find* him a *Lord*, or *Fide-juſſor*, to undertake for him in the *Folk-Mote*. A

Ibidem, apud Groatanley, c. 1.

If any Man turned away his Servant for evil doing, and his *Lord* had a mind unjuſtly to undo him, berette hine thonne gif he Wege on Folcgemote. He may *Juſtifie* himſelf if he can in the *Folc-Mote*.

All theſe Laws prove the *Folcgemote* to be an *Inferior Ordinary Court*. B

Judicium Dei, Bellum vel Judicium, ceu Dei Judicium. C

THe meaning of *Bellum* as 'tis here diſtinguiſhed from *Judicium*, is known by every one, but by Judicium, or Dei *Judicium*, ſometimes was meant Purgation, by which the crime was removed, where Men wanted witneſſes to prove their innocency: And this *Purgation* was either* *Canonical*, ſo called for that it was allowed by *Canons* and *Councils*, and was always performed by *Oath* either of the *Party* alone, or others joyned with him. Or *Vulgar*, received as introduced at firſt by the *Ignorant* and *Superſtitious* Multitude, and was called an Invention of Men, a popular Invention, a ſtrange Judgment, a Law without any Sanction, and this was performed by *Duel*, Red hot *Iron* carried in the hand, or Red hot *Plough-ſhares* to be *walked* over by blindfolded Perſons, or by *Hot* Water, or by *Cold*, or by the *Croſs*, the *Euchariſt*, or *Morſel* with Imprecations, &c.

* Decret. Gregor. lib. 5. Tit. 33. D

Swearing and Duel (though ſometimes) were but ſeldome taken in this ſenſe for the *Judgment* or *Deciſion* of *God*, which was moſtly underſtood of *Fire* or *Water Ordeal*, or the probation by *hot Iron*, *hot* and *cold Water*. Si negaverit ipſum occidiſſe, ad novem homeres ignitos, ad judicium Dei examinandum accedat, *LL. Longobard*, lib. 1. Tit. 10. Sect. 3. If he that was accuſed did not confeſs the murder, he was to be tryed by ſtepping barefoot blindfolded over nine Plough-ſhares laid in length at equal diſtance, which if he paſſed *unburnt*, he was judged *innocent*, but if *burnt*, he was judged *guilty*; this they termed examination by the *Judgment* of *God*. Gif hwa Dædaleg Weddige, &c. *LL. Athelſtan.* c. 23. which words *Brompton* renders, *ſi quis Judicium ferri vel aquæ vadiaverit*, Col. 844. n. 20. (becauſe the manner of performing both thoſe ſorts of *Ordale* are Deſcribed in that Chapter) if any Man gives *pledge*, or *ſecurity* to undergo the *Judgment* of *Fire* or *Water*, &c. And in *Canutes* Laws, That he ga to Godes Dædale, *ad Dei Judicium eat*, c. 32. In the Laws E F

imputed

imputed to King **Edward** the Confessor, it is said of an English Man that killed a Dane, *Si se super hoc defendere non potest* **Judicio Dei**, *scilicet aqua vel ferro, fieret de eo Justitia*; If he was found Guilty by the *Judgment* of *God*, to wit, by *Water* or *Iron*, let Justice be done upon him, that is, let him be put to death as the Law was, c. 16. In the * Laws of **William** the First, *Judicium & Bellum* are contradistinguished, *Anglus se defendat per quod melius voluerit aut Judicio ferri aut Duello*, c. 62. *Anglicus homo de re aliqua pro qua Bellum fieri debeat vel Judicium inter duos homines habeat plenam licentiam faciendi*, c. 68. *Si Francigena compellat Anglicum per Bellum, &c. Anglicus plena licentia defendat se per Bellum vel per Judicium si magis ei placeat*, c. 69. In all which places an English Man had liberty given him to defend himself by *Duel* or *Judgment*, which he pleased. So also *Glanvil* after he had spoken of *Duel*, and the Causes for which some Men might be excused from it, says, *In tali autem casu tenetur se purgare, is qui accusatur per* **Dei Judicium**, *scilicet*, **per calidum ferrum** *vel* **per aquam** *pro diversitate Conditionis hominum, scilicet, per* **ferrum Calidum** *si sit homo* **liber**, *per* * **aquam** *si fuerit* **Rusticus**. In such case the accused person was bound to *purge* himself by *Judgment* of *God*, to wit, by **Hot Iron** or by **Water**, &c. *Gervase* of *Tilbury* likewise tells us, That *Judicia* were *Leges candentis ferri vel Aquæ*. De Observand. Scaccarii, Lib. 2. Tit. or. C. 8.

* If these Laws were his, he published them presently after his first Entrance before he had wholly subdued the Nation.

* That is, as they try Witches whether he would sink or swim.

'Tis recorded in *Doomsday* of the *Towns* and *Lands* belonging to the *Liberty* of **Tantone**, *de his omnibus terris facturi* **Sacramentum**, *vel* **Judicium** *portaturi*, ad **Tantone** *veniunt*. Ibidem. f. 87. b. col. 1.

This carrying of *Hot Iron*, was taking a piece of *Red Hot Iron* of a *Pound* weight into the hand, which was called simple Ordal, and carrying it the time of nine steps or paces, and if it was three Pound weight it was *Triplex Ordalium*. See *Olaus Norm. Monumenta Danica*, lib. 1. cap. 11.

Judicium in nullo loco portetur nisi in Episcopali sede aut in illo loco quem Episcopus ad hoc Constituerit. Monast. Angl. vol. 3. f. 308. col. 2. lin. 3.

See more in the Discourse about *Ordal* in the Saxon Story.

Liberi Homines, Libere Tenentes.

Liberi Homines most properly were those which held in *Military*, or *Knights Service*, and in this sense of the words, all the *Earls*, *Barons*, *Knights*, and *others* that held *Knights Fees*, or *part* of *Knights Fees*, were called and esteemed *Freemen*. Of these Freemen there is often mention in *William* the *Conqueror's* Laws. *Volumus etiam & firmiter præcipimus & concedimus ut omnes* **Liberi Homines** *totius Monarchiæ regni nostri, teneant terras suas & possessiones libere ab omni exactione injusta & ab omni* **Tallagio**, &c. *Ita ut nihil ab iis capiatur nisi* **servitium suum liberum**, &c. This was **Military** *Service*, called *Free*, in respect of other *Base* Services. *Statuimus etiam & firmiter præcipimus, ut* **omnes liberi homines** *totius Regni, sint fratres Conjurati ad Monarchiam nostram defendendam.*

Statuimus etiam & firmiter præcipimus ut omnes **Comites & Barones, & Milites & Servientes, & universi Liberi Homines** *totius Regni habeant & teneant se semper bene* in **Armis** *& in* **equis** *ut decet & oportet, & quod sint semper* **prompti** *& bene* **parati** *ad* **servitium** *suum integrum nobis Explendum & peragendum, cum semper opus fuerit, secundum* **quod** *nobis de* **feodis** *debent & Tenementis de* **Jure** *facere.* These *Liberi Homines* were the *same* in all three *Laws*.

Berault, upon the *Customs* of *Normandy*, gives from **Coquille** a brief account of **Free Fees**, and **Freemen**, or *Gentlemen*. *Sur le declin de l'Empire Romain les François (ainsi dit de Franconie Province d'Alemayne) apres avoir Conqueste les Gaules, sur les Romains à limitation d'iceux Distribuerunt les Domains de leur Conquests aux Soldats qui avoient esté avec eux victorieux & iceux retinderent a eux seuls la dignitie d'Estré* **Gentils Hommes**. *Pour avoir droit de manier les armes, & aux Gaulois vassicus qui Essoient les anciens habitans du pays appellez* **Roturiers** *ils osterent l'usage des armes leur Reservant le* **Menage Rustique** *& la* **Marchandise**. *De ce tems la est venue la Distinction des* **Nobles** *& des* **Roturiers**, *& la loy par laquelle les* **Roturiers** *ne peuvent tenir* **Fiefs Nobles**. *Car il est certain que tous personnes n'estoient pas anciennement capables de tenir* **Fiefs Nobles**, *il n'y avoit que les hommes nobles* **Francs** *et* **exempts** *de payer* **Tailles** *et* **Subsides**, *c'est pourquoy tels* **Fiefs** *estoient appellez* **Francs**. But in *France*, as well as here, in process of time, the Law became more easie, by the *Relaxation* of the *Feudal Law*, and daily use, almost all Men became capable of purchasing, holding, or receiving *ex dono* these *Fees*, however those that held them were most properly accounted **Freemen**, and *Free* **Tenents**.

Willielmo Filio Hen. primi omnes **Liberi Homines** *Angliæ et Normanniæ cujuscunque ordinis et dignitatis, cujuscunque Domini* **Fideles** *manibus et Sacramento se dedere coacti sunt.* These were all Tenents in *Military Service*, and all *Feudataries*, or *Vassals*, of what *Lord* soever.

In *Selden's* Notes on Eadm. LL. 55.

Ibid. LL. 59.

Ibid. LL. 58.

Chap. des Feifs & Droits Feodaux, fol. 113.

Soccagers.

Malmsb fol. 93 a. n. 30.

A B C D E F

Florence

Florence of *Worceſter* relates how the Nobility performed this, *Conventio Optimatum et* **Baronum** *totius Angliæ apud Seresberiam* 14 *Calendarum Aprilis facta eſt. Qui præſentia Regis Hen.* **Homagium** *filio ſuo Gulielmo fecerunt, et* **Fidelitatem** *ei juraverunt.* Fol. 657.

Eadmer ſays, 13 *Calend. Aprilis factus eſt Conventus* **Epiſcoporum, Abbatum,** *et* **Principum** *totius Regni apud Serberiam cogente eos illuc Sanctione Regis. Igitur agnita Regis voluntate mox ad nutum ejus omnes Principes facti ſunt homines ipſius Willielmi, fide et Sacramento confirmati. Radulphus autem Archi-Epiſcopus Cantuarienſis et alii Epiſcopi atque Abbates Regni Anglorum Fide et Sacramento profeſſi ſunt, ſe Regnum et Regni Coronam ſi defuncto patre ſuo ſuperviverent, in eum, omiſſa omni Calumnia et occaſione tranſlaturos, eique cum Rex foret Hominia fideli mente facturos.* Fol. 117. n. 30. 40.

In a Warrant 14 *Johan.* to all the *Sheriffs* in *England*, the noted and uſual *Freemen* are diſcovered, *Summone per bonos Summonitores,* **Comites, Barones, Milites,** *et omnes* **Liberos Homines** *et Servientes, vel quicunque ſint vel de* **Quocunque Teneant,** *qui arma habere debent, vel arma habere poſſunt, et qui* **Homagium** *nobis et* **Ligantiam** *fecerunt,* &c. Mat. Paris, fol. 233. n. 50. &c.

Rex dilectis et **Fidelibus** *ſuis* **Militibus** *et* **Liberis Hominibus** *de Com. Southampton,* &c. *vobis Rogamus Mandantes,* &c. *ad nos ſitis cum* **Equis** *et* **Armis** *et toto poſſe veſtro apud Oxon,* &c. These **Liberi Homines** were *Tenents* in **Military** *Service. Hæc eſt conventio inter Dominum* **Johannem Regem** *Angliæ ex una parte et* **Robertum filium Walteri Mareſcallum Exercitus Dei** *et* **Sanctæ Eccleſiæ** *in Anglia et Comitem* **Richardum** *de* **Clare,** and five Earls more, and ſix Barons there named, *et alios* **Comites** *et* **Barones** *et* **Liberos Homines** *totius regni ex altera parte:* These **Liberi Homines** were the other *Tenents in Capite,* or at leaſt their *Retinue,* and *Tenents* in **Military Service,** which were with them at **Runnemede,** where this *Agreement* was made. 48 Hen. 3. M. 18. Dorſ. Cl. 17 Johan. M. 21. Dorſ.

These **Liberi Homines,** or *Freemen,* were the only Men of *Honor, Faith, Truſt* and *Reputation* in the Kingdom; and from amongſt ſuch as theſe, which were not *Barons,* the *Knights* did chuſe *Jury-men, ſerved* on *Juries* themſelves, bare *Offices,* and *Diſpatcht* all *Country*-Buſineſs. Pat. 42 Hen. 2. M. 3. Dorſetſhire. Pat. 42 Hen. 3. M. 3. Hertf. And ſo to other Sheriffs through *England.*

These were the **Freemen** which made ſuch a **Cry** for their *Liberties,* (as appears by *Magna Charta,* moſt of which is only an *Abatement* of the *Rigour,* and a *Relaxation* of the *Feudal Tenures*) the reſt were but only *Followers,* and helped to *augment* the *Noiſe*; they were no *Law-Makers,* as this Gentleman fondly imagines; for 'tis not probable, that thoſe Men that had the Force of the Nation, would permit Men of *ſmall Reputation* to ſhare with them in *Law-Making.* Thoſe that had the Power of this, and other Nations *de facto,* always did give Laws, and Tax the People.

And ſo did the *Tenents in Capite* tax themſelves, and all other Tenents and Freemen of *England* in thoſe times we are writing of, as alſo did the Citizens and Burgeſſes, *Civitatum & Burgorum Dominicorum Regis,* (for indeed all Cities and Burghs by reaſon of their Trading

Privileges were ſuch, and therefore chiefly ſo called) as will be made evident upon another occaſion. This hath been partly proved by ſeveral * Records produced in the Explication of the words **Communitas Regni**, and in the Animadverſions on *Jani Anglor. facies nova*, 169. D. 170. A. 221. A. B. C. *&c.* and ſhall be further proved by theſe following.

* Pat. 30 Ed. 1. M. 1. Pat. 35. Ed. 1. M. 45. & Breve E. 1. inter Communia Brev. in Scaccar. Ter. Trin. An. Regn. 34 in Append. & fin. 20 E. 3. M. 7.

Clauſ. 4 Hen. 3. M. 5. Dorſ. Append. Record 12.

* *Fideles* here were the Kings Feudataries: See here the word *Regnum*.

Mat. Paris, f. 322. lin. A.D. 1224. 8 Hen. 3.

Rex Vicecom. Northampton, ſalutem. Scias quod pro magna neceſſitate noſtra & ingentiſſima Debitorum noſtrorum inſtantia, necnon & pro Conſervatione Terre noſtre **Pictav.** *Conceſſerunt nobis ſui gratia Communiter* **omnes Magnates** & * **Fideles** *totius Regni noſtri.* **Donum** *nobis faciendum, ſcilicet de* **qualibet Caruca** *ſicut juncta fuit Craſtino Beati Johannis proximè præterito Anno Regni noſtri quarto* **Duos Solidos** *per manum tuam & Duorum de Legalioribus Militibus Comitatus tui Colligendos, qui de voluntate & Conſilio* [*] **omnium** *de Comitatu in pleno Comitatu Eligentur ad hoc faciendum, &c.* A B

The Soldiers of *Falcaſius de Brent* took *Henry de Braybrooke*, one of the Kings Juſtices, Priſoner when he was at *Dunſtable* Trying of Cauſes, and carried him to *Bedford-Caſtle*. The King ſent and demanded him; The Governour of the Caſtle denied to deliver him: The King by advice of the [**] Clergy and Laity then in a great Council at *Northampton*, beſieged and took the Caſtle, and towards his Expences, *Regi vero pro maximis Expenſis & laboribus ſuis tam à* **Prælatis** *quam à* **Laicis**, *Conceſſum eſt per totam Angliam* **Carutagium** *de qualibet* **Caruca** *duo ſolidi argenti: Magnatibus item Conceſſit Rex* **Scutagium**: *Videlicet de quolibet* **Scuto** *Duas* **Marcas** *ſterlingorum.* The Scutage granted by the King to the great Men, was from their *Tenents* in Military *Service*, and it was to ſuch as were with the King at the Siege of the *Caſtle*. C

Ibidem. * That is, the Book of the Prio y there.

The Chronicle of * *Dunſtable*, where the Juſtice was taken, reports the Gift of this *Ayd* to have been otherwiſe, ſpeaking of *beſi ging* the Caſtle as above, **Archiepiſcopus, Epiſcopi & Abbates** *Suffraganei Conceſſerunt Regi in* **Auxilium, Carvagium**, *ſcilicet Dimid. Marc. de ſingulis* **Carucis** *Dominicis, & Duos Solidos de ſingulis* **Carucis** *Tenentium ſuorum.* D

Pat. 15 Hen. 3. M. 3. Append. Record 13.

Rex omnibus, &c. Salutem. Cum peteremus & **Prælatis** *Angliæ quod nobis Auxilium facerent pro Magna neceſſitate noſtra de qua eis Conſtabat, videlicet* **Epiſcopis, Abbatibus, Abbatiſſis, Prioribus, Prioriſſis**, *qui de nobis* **Tenent** *in* **Capite**, *ipſi nobis liberaliter* **Conceſſerunt** *Auxilium tale. Scilicet de ſingulis* **Feodis Militum** [*,*] **ſuorum** *Quadraginta Solidos, de tot* **feodis** *de quot ipſi tenentur nobis reſpondere quando faciunt nobis* **Servitium** *Militare. Et* **Nos Conceſſimus** *eiſdem* **Prælatis** *quod ad prædictum* **Auxilium** *nobis faciendum,* **habeant** *de ſingulis* **Feodis Militum** *quæ de eis tenentur quadraginta Solidos,* &c. E F

[*] What theſe *Omnes de Comitatu* were, See Pat. 9. Hen. 3. M. 7. Dorſ. here in Append. Record 16.

[**] *Cum Dominus Rex cum Clero & Baronibus Regni apud Northampton tractaret, &c.* Chron. Dunſtapliæ in Bib. Cotton. Tiber. A. 10. f. 21. a.

[*,*] This quite ſpoils Mr. *Petyt*'s Comment upon the memorable *Record* concerning the *Prior* of *Coventry*, which he happily found in the Exchequer, Append. to Rights of the Commons, &c. p. 141. 178.

Rex

Rex Vicecom. Somerset, salutem. Scias quod Comites & Barones & * omnes alii de Toto *Regno nostro Angliæ spontanea voluntate sua & sine consuetudine concesserunt nobis efficax* Auxilium *ad magna negotia nostra Expedienda, unde provisum est de consilio eorum, quod habeamus de singulis feodis Militum, quæ de nobis Tenent in Capite. Et de Wardis tam de* novo Feofamento *quam de* veteri *duas Marcas ad Auxilium prædictum nobis faciendum*, &c.

A

Clauſ. 19 H. 3. M. 6. Dorſ. Append. Record 14.

* See who the *Omnes alii de Toto Regno* were in the Explication of the word *Regnum, &c.*

Rex Vicecom. Kanc. salutem. Scias quod cum in Octabis Sancti Hillarii Anno, &c. 21. *ad mandatum nostrum convenirent apud Westmonasterium* Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones *totius Regni nostri, &c. Iidem* Archiepiscopi, Abbates, Priores & Clerici * *Terras habentes que ad Ecclesias suas non pertinent.* Comites, Barones & Liberi Homines *pro se & suis Villanis nobis Concesserunt in Auxilium tricesimam partem omnium Mobilium*, &c.

B

Cl. 21 Hen. 3. M. 7. Dorſ.

* Such as had Knights Fees, or part of Knights Fees that held *in Capite* belonging to their Benefices, as there are several Maners belonging to Rectories.

In the Ninth of King *Henry* the Third, the * *Tenents in Capite*, that is, the *Arch-Bishops, Bishops, Earls, Barons Abbats* and *Priors*, gave a 15th *part* of all the *Goods* as well of *Ecclesiasticks* as *Laicks* for the Grant of Magna Charta.

* See Answer to Mr. *Petyt*, f. 126.

In the 54th of his Reign they gave him a 20th part of all the movables of the Kingdom; and becauſe the Prelates, great Men and Community of the Kingdom thought it not expedient (*Quia tamen* Prælatis, Magnatibus & Communitati *Regni nostri non videtur Expediens, &c.*) for him to undertake the *Croſs* and *Voyage* into the *Holy Land*, by the advice of the foreſaid Prelates and great Men (*Consilio prædictorum* Prelatorum & Magnatum) his Son *Edward* was directed to undertake that Service, and had the 20th part aſſigned to him by the King.

C

Pat. 54 Hen. 3. M. 7. De ſigno Crucis tradito E. primogenito Regis & 20, ſibi Conceſſa.

D

In the Seventh of the ſame King there was a Poll or General Head-Tax Granted, *coram nobis & Consilio nostro præsentibus* Archiepiscopo *Cantuarienſi*, Episcopis, Comitibus Baronibus, & Magnatibus Nostris *de communi omnium voluntate*, before the King and his Council, by the common conſent of the *Archbishop* of Canturbury, the *Biſhops, Earls, Barons*, and the Kings *Great Men.*

Rot. Clauſ. 7 Hen. 3. M. 23. Dorſ. Auxilium Conceſſum in ſubſidium Terræ Sanctæ. * Append. Record 17.

E

That many of theſe Tenents in Capite, thoſe of the ordinary Community eſpecially, were Libere Tenentes, *Freeholders* of the King in Capite, or Military ſervice, is beyond all doubt. *Rex Vicecom. Bedford & Buks, salutem. Quia summonitionem factam Archiepiscopis, Episcopis*, Abbat. Prioribus, Comitibus, Baronibus, Militibus, Libere Tenentibus, *& aliis qui de nobis* tenent in Capite *per servitium militare vel* Serjantiæ, &c.

Clauſ. 7 Hen. 3. M. 10. Dorſ.

F

Rex Vicecom. Northampton. salutem. Præcipimus tibi sicut alias præcipimus firmiter injungentes quod summoneri facias Archiepiscopos, Episcopos, Comites, Barones, Abbates & Priores, Milites & Liberos homines *qui de nobis* tenent *in* Capite *per* ſervitium Militare, *vel* Serjantiam, &c.

Cl. 26 Hen. 3. M. 7. Dorſ.

Rex

Cl. 24 Hen. 3. M. 2. Dorſ. Breve Placitorum de Foreſta.

Rex Vicecom. Bucks, &c. *Sumone per bonos Sumonitores*, **Archiepiſcopos, Epiſcopos, Priores, Comites Barones, Milites & Libere Tenentes**, *qui Terras vel Tenementa habent infra metas Foreſtæ*, &c. There can ſcarce be any doubt made, but theſe were ſuch **Libere Tenentes**, ſuch *Freeholders* as above, or *Freeholders* of other perſons in Military Service.

A

Rot. Cl. 9 H. 3. M. 9. Dorſ.

Rex Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus & omnibus aliis de Comitatu Eborum, cum **Probis Hominibus noſtris** *de Regno noſtro libertates conceſſerimus per Cartas* **noſtras**, *&c.* and theſe the ſame **Libere Tenentes**, being joyned with the ſame orders of Men. And note, **probi homines noſtri** were the Kings *Tenents in Capite*.

There were Knights and Freeholders alſo in Military Service, which held of the Biſhops, Abbats, &c. of the Earls, Barons, and other great Men. *Diſtringas omnes Milites &* **Libere Tenentes** *qui de eis tenent per ſervitium Militare & Ballivæ tuæ*, &c. See Record 14. and 15. in the Appendix.

B

Glanv. lib. 2. cap. 10. 11. lib. 9 c. 7. The *Liberi Homines* which ſerved on Juries, were *Milites*, and Tenents in Military Service.

Theſe were the **Liberi & Legales homines**, the Freemen which *Glanvile* ſo often mentions; *Ut per quatuor Milites Legales de Comitatu & viceneto, Eligantur* 12 **Milites** *Legales de eodem viceneto qui ſuper eodem die coram me vel* **Juſticiis** *meis ad locum illum parati recognoſcere utrum R. vel N.* **Majus jus** *habet in una hida terræ*, &c. And the finding out of Truth, and the *Tryal* ſo much depended upon theſe **Milites**, *Tenents* in *Military Service*, as it was a **Quere** in *Glanvils* time, That if there were no **Milites**, or not *twelve* to be *found* in the *Vicenage*, or the *Country*, whether or how the *Demandant*, or *Tenent*, could have *right* done them.

C

Ibidem, lib. 2. c. 21.

D

Cap. 12.

Magna Charta tells us, that *Aſſizes* of *Novel Diſſeiſin*, and *Mort Danceſtor*, ſhall be taken in the *Counties* by the **Juſtices**, and **Knights** of the *Shire*, which afterwards dwindled into *Freeholders* of Forty Shillings *per annum*. Of theſe *Men* it is and their *Services* that **Bracton** ſays, They were ſo *notoriouſly Free*, that in *Writs* of *Right* it was never mentioned, becauſe ſo well known, *Notandum in Servitio* **Militari**, *non dicitur per* **Liberum Servitum**, *& ideo, quod conſtat, quia tale* **Servitium liberum** *eſt*. *Cragius* ſays Knights Fees were of the greateſt dignity amongſt all Nations, and were preferred before all other kinds of Fees. **Feudi Militaris** *dignitas Maxima eſt, & apud omnes nationes, omnibus aliis* **feudorum** *generibus præfertur*.

Lib. 5. cap. 2. fol. 328. a.

Military Service the moſt Free Service.

Crag. de Feud. f. 60.

E

Theſe were the Men that were *Jurors*, and made *Preſentments* in *pleas* of the *Crown*, according to the forms of proceeding in them.

F

Forma

Forma Procedendi in Placitis Corone Regis.

IMprimis eligendi sunt 4 **Milites** *de toto Comitatu, qui per Sacramentum suum Eligant duos legales* **Milites** *de quolibet Hundredo* A *vel Wapentachio, et illi* **duo** *Eligant supra sacrum suum* **Decem Milites** *de singulis Hundredis vel Wapentachiis, vel si* **Milites** *defuerint, Legales et* **Liberos Homines**, *Ita quod illi* **Duodecim** *insimul Respondeant de omnibus* **Capitulis** (all the Articles) *de toto* **hundredo** *et* **Wapentacco.** *Bracton* says, *Quatuor* **Milites** *Eligebant in quolibet hundredo* 12 **Milites** *vel* 12 **Liberos** *et* **Legales** *homines, si* **Milites** *non inveniantur,* to be *Jurors* in *pleas* of the *Crown, Coram* **Justiciariis** *in Comitatibus. Fleta* hath it, that these four shall chuse **twelve** B *de* **Melioribus** *de qualibet Ballivia*, that is, *Hundred*, or *Wapentake.*

Hoveden, fol. 423. a. n. 40. in the time of *Rich.* 1.

The Jurors in Pleas of the Crown were *Milites*, and Military Tenents, the same with *Probi & Legales Homines.* Fol. 116. n. 3. Others which held half Fees, third or fourth part of Fees, &c. Lib. 1. c. 19. fol. 23.

Other Freemen there were in those times, but what their *Quality* was, further than that their *persons* and *blood* was *Free*; that is, that they were not *Nativi*, or Bondmen, it will give a *knowing* Man trouble to discover it to us. We find in every *leaf*, and almost every Entry upon that leaf of *Domesday*, **Sotmen**, *et Liberi homines, Possessors* of small parcells of *Land*, but what their quality was, and of C what intereſt in the *Nation*, I shall discover upon another occasion. The **Freemen** there, or **Taini**, **Thegns**, which are said to possess **Maners**, **Towns**, or *great parts* of *Towns*, very many whereof are found in the *Countries* bordering upon *Wales*, with this addition, *et liber homo fuit*, or *potuit ire quo voluit*, were the *same* with **Milites**, *et* **liber homo** *attributed* to such *possessors* was the same with *Miles.*

D

There were besides these *liberi homines*, *Free-Tenents* also (which perhaps might not always be *Freemen.*) **King** *John*, *Anno Dom.* 1202. by *Galfrid Fitz-petre*, *Justitiary* of *England*, wrote Letters to all his *Earls*, and *Barons*, to perswade, and induce them to collect the fortieth part of their Rents towards the *Relief* of the *Holy Land*, of every of their *Towns*, as it might be let to Farm by the year, *et si in eadem villa fuerint per Servitium* **Militare** *tenentes dent* **Quadragesimam** E *portionem modo prædicto, si autem fuerint* **Liberi Tenentes** *similiter dent eandem portionem modo prædicto*, **Computato** reditu, *quem* **Dominis** suis *solverint per annum*, the *Rent* the *Free Tenents* paid to their *Lords* being *discounted*; which then if not the *full*, yet it was a considerable *part* of the *True Value.*

Hoveden, fol. 471. a. n. 30.

Free Tenements, and *Free Tenents*, besides those in *Military Service*, Cap. 10. are mentioned in **Magna Charta**, *Nullus distringatur ad faciendum majus* **Servitum** *de* **Feodo Militis**, *nec de alio* **libero** *Tenemento, quam inde debetur.* See in the *Title Knights Fees*, &c. for *Fee Farms*, and *Frank Tenements*, &c. F

But these were not the *Ordinary* Freemen, or the *bulk* and *multitude* of the *Freemen*, or *small* Freeholders, who in those times were of no great *esteem* or *value* in the *eye* of the *Law*, for they, as well as

LL. Ethelred, c. 1.

as the *ordinary Freemen* in the *Saxons times*, were all *bound* with *Sureties* to their *good behaviors*; Every *Saxon Freeman* had his *Undertakers*, that he should do every Man *right*, and make *satisfaction* for the *Crimes* he committed. The *Freemen*, *Masters* of *Families*, their Sons at Fourteen years of age, and all other *Freemen*, were cast into **Decuries** or **Tithings**; *Hors pris Clers & Chivalers et lour Enfaunts et Femmes*, except *Clercs*, **Milites**, their Children and Women: That is,

Britton, c. 29. p. 72. b. These could not be *Probi & Legales Homines.*

ten *Freemen*, or *Free Pledges*, were *bound* all for one another, and A

Ibid. fol. 73. b.

were to *bring* the offending person amongst them to Justice, or to make *satisfaction* for the *Crime* he committed, if they could not do it; The chief of these was called the **Tithingman**, or **Capital** *Pledge*, who, if he had not his **Tithing** full, that is, *ten free Pledges* so bound, one for another, he was to be *amercied*, and so were all such *Freemen* as ought to be in one *Tithing* or *another*, and were not, to be Amercied, and also *such as received* any *Freemen*, that *ought* to be, and *were* not in any *Tithing*, or that *gave* them *Meat* and *Drink*, were B to be Amercied.

Magna Charta, c. 35. Cokes second Institut. f. 73. Bracton, p. 124 b.

Fiat autem * **Visus** *de* **frank-plegiis** *sic videlicet, quod pax nostra teneatur et quod* **Tithinga** *teneatur integra sicut esse consuevit.* Let the View of pledges or sureties for Freemen be made so that our peace may be kept. The main end of this Institution and Law was for keeping the Kings peace. The *Franke plege* or *Tithing* consisted of ten *households*, and these ten *Masters* of *Families* were bound every one for C other, and for one anothers Family, that each Man of their Family should stand to the Law, or if he were not forth coming, that they should answer for the Injury or Offence.

Ibidem.

The **Courts** in which the *Misdemeanors* of these Men were at first *punisht*, but at length *presented* only, were the **Sheriffs Turns**; which in process of time, for the ease of the people, were kept in every *Hundred*: The Stile of the Court was the *View*, or **Court** of **Franc** D *Pledges*, or *Freemen* cast into *Tithings*, which **View** of *Free Pledges* was also for the ease of the people, *granted* to *Lords* of *Maners* by the *King*, to have the view of *Tenents* and *Resiants* within *their Maners*. All Freemen that lived within the Hundred, except *Earls*, *Prelates*, *Barons*, and *Religious* Men, ought *Service*, and were *bound*

Ibid. p. 72. b.

to *appear* at this *Court* held twice in the year. For though the **Military** *Fees* were sufficient Pledges for *Military Tenents*, yet they were bound to serve upon the *Jury*, which was to give in the last E *Presentment*, to the Sheriff under their **Seals**, which were *twelve persons* of the most *Sage*, *Loyal*, or *Legal* and *sufficient* of the whole

Ibid. p. 71. a.

Hundred, chosen and sworn by the Sheriff, who were to take the *Presentments* of the chief *pledges*, and others upon oath, and after they had *examined*, whether those *Presentments* were *true* or *false*, accordingly, upon certain *Articles*, they gave in *Presentments* to the *Sheriff*. See more of this matter in **Magna Charta**, c. 35. *Cokes Second Institut. fol.* 71. *Fourth Instit. fol.* 259. 261. **Pultons** *Stat.* F 17 *Edw.* 2. *fol.* 108. *Britton, c.* 29. I think no sober Man will say, that these Freemen, or Freeholders of some small parcels of Land, to the value perhaps, in those days, of some Ten Groats *per annum*, were members of our Common Councils, or Parliament.

Ten Groats *per annum* then, was more than Forty Shillings *per annum* now.

Magnates,

Magnates, & Proceres.

FOr the meaning of these words, I shall refer the Reader only to these Writs of Summons here cited, 18 *Ed.* 1. f. 149. E. Cl. 22 *Ed.* 1. *M.* 6. *Dors.* f. 151. C. Cl. 28 *Ed.* 1. *M.* 3. *Dors.* f. 152. Cl. 20 *Ed.* 2. *M.* 4. *Dors.* f. 157. F. *Bundel* of Writs of Summons, 26 *Ed.* 3. f. 158. D. And to Mr. *Fitz-Harris* his Arraignment and Plea, fol. 4. *A. D.* 1681. Until the Scriblers can make it good by Authentick Proof either of Record or History, that these words are applyed to ordinary Freeholders, and that they are frequently intended by them, as they often insinuate under such Expressions as these, *Magnates & Proceres*, words of large extent, words applicable to Commons, *&c.*

Præpositus & Quatuor de unaquaque Villa.

JUstitiariis Forestarum Itinerantibus, *præceptum est ex parte Regis, ut per singulos Comitatus per quos ipsi ituri essent, convenirent coram eis ad placita forestæ Archiepiscopi, Episcopi, Comites et Barones, et omnes Libere Tenentes, et de unaquaque Villa* Præpositus *et* Quatuor Homines *ad audienda præcepta Regis*, &c. Hoved. f. 445. b. n. 40. A.D. 1198. 9 Ric 1.

Rex Vicecom. Bucks, salutem. Summone per Bonos Sumonitores Archiepiscopos, Episcopos, Priores, Comites, Barones, Milites, Libere Tenentes qui Terras et Tenementa habent infra Metas Forestæ nostræ in Balliva tua. Summone etiam de qualibet Villa Comitatus tui infra Metas Forestæ nostræ Quatuor Homines *cum* Præposito *Villarum*, &c. Cl. 14 Hen. 3. M. 2. Dors. Breve placitorum de Foresta.

This Præpositus is commonly taken to be the *Constable*, or as in some places they call him, though very ignorantly, the *Headborough* of the Town: But 'tis a great mistake; for he in *Pleas* of the *Forest*, at the *County-Court*, and Sheriffs *Turn*, represented the Lord of the Maner, whereof he was the Præpositus, and he was no other than the Lords *Reeve*, or as now called, his *Bayliff*, one that managed his Maner and Lands for him. * Sometimes he is called Serviens Villæ, and if more Lords than one in a Town, then Servientes Villæ. The *Lord* answered for the *Town* where he was Resident, where he was not his Dapifer or Seneschal, if he were a Baron; but if neither of them could be present, then the Reeve, and *four* of the best Men of the Town. *Si quis* Baronum *Regis vel aliorum Comitatui secundum Legem interfuerit, Totam terram quam illic in* Dominico *suo habet* * *acquietare poterit. Eodem modo est si* Dapifer *ejus legitime fuerit, si uterque necessario desit,* Præpositus *et* Sacerdos, *et* Quatuor de Melioribus *Villæ assint, pro omnibus qui non erant nominatim ad* Placitum *Somoniti.* This *Officer* by the name of Præpositus, or *Regis* Præpositus, often occurs in *Doomsday* in the Description of several Villages, and as a Manager of the Village as in the Kings Hands. I have now by me an Account of the Præpositus of *Winebodesham*, a Town in the *Hundred* or *Liberty* of Clacklos in the County of *Norffolk*, once belonging to the *Abby* of *Ramsey*, by the Hand I

* See here Record 17.

LL. Hen. 1. Cap. 7.

* i. e. Secure it from distress.

gueſs it to have been made about the time of *Edward* the Third, which begins in the *form* following.

Wynbodeſham

Anno Domini Ranulphi Viceſimo die Sancti Edmundi Regis, reddit Johannes Præpoſitus *de Wynbodeſham Compotum ſuum à Feſto Sancti Michaelis Anno ejuſdem Decimo nono uſque ad Feſtum Sancti Michaelis proximè ſequens, &c.* And then he ſets down the *Rents received*, and what Money taken for Goods; next what *Expences*, and what laid out for Goods bought in; and then afterwards gives an account what was then remaining in the *Grange*, what *Wheat*, what *Rye*, what *Barley*, *Oats*, *Peaſe*; What *Stock* of *Great Cattle*, what *Sheep*, *Hogs*, &c. What in the *Larder*, what in the *Diary* or *Dairy*, what *Geeſe* and *Ducks*, what *Hens*, what *Eggs*, what *Utenſils* in the Houſe, and *Implements* of *Husbandry* abroad, and this gives us the *Certainty* of the meaning of the word. A

Knighton, Col. 2557. n. 4. Artic. 7. A. D. 1330.

Amongſt the *Articles* againſt *Roger Mortemer* this was one, *Enſy le dit Roger de* Mortimer, *in Deſceivance manere fiſt les Chivalers dez Countez al dit Parliment al Roy de Cheſcune vile Dengleterre que Reſpont per* Quatre *&* le Provoſt *En* Eyr *une homme de armes à leur Coſtages en ſa Guerre de Gaſcoyn par une an la quele charge le dit* Roger *avoit Compaſſe, &c. en Deſtruccion de People.* Alſo the ſaid Roger in deceitful manner made the Knights of Counties to charge a Man at Arms upon every Town that anſwered in the *Iter* by four and the Reeve, to be maintained one year in the War of *Gaſcoyn, &c.* B C

*That is, when the Itinerant Juſtices went their Circuit.

What this Præpoſitus or Reeve was, or for whom he and the *four* came to anſwer, is ſcarce now known. They come to anſwer for the Town, as they believe, and of meer courſe, the *Lord* never taking notice of them, nor they of him. I have by me an Extract of a *Turn* holden for the Liberty of Clacklos above-mentioned, which was holden *April* the fifth, 3 *Car.* 1. in which the Reeve and four for every Town were Fined 12 *d.* a Head. D

Clacklos-Hill. Extract of the Turn there holden on *Thurſday* the fifth of *April*, *Anno Caroli, &c. Tertio, A. D.* 1627.

Sotherie. Of the Four and the Reeve there, for Default of Suit of Court, 5 *s.* E

Helgay. Of the *Townſhip* there for Default of Four and the Reeve, 5 *s.*

Stoke cum Wretton. Of the *Townſhip* there for Default of *three* of the Four and the Reeve, 3 *s.*

And ſo more or leſs according to the *Appearance* of all the *Towns* in the Hundred. F

Being very inquiſitive to find out what ſort of Perſons *now* made their *Appearance* in the *Turns* of this *Liberty*, and how they were ſent thither, I received this Exact Account from an Ingenious Friend that lives within it.

SIR,

SIR,

"I Hereby present you with the exactest Information I could obtain "concerning the Manner of keeping the Court called the Sheriffs "Turn within our *Hundred* of *Clacklos*, tho' I believe the present pra- "ctice to be very different, from what it was in its first Institution: A "Generally there are four Men and a Reeve warned out of every Town "to appear, the *four* Men are now taken or sent *promiscuously*, such "as are best at leisure to attend, though formerly every House did ob- "serve its course, and keep its turn yearly until they passed through "their Respective Towns, some Houses finding a Man and half, some- "times two Houses joyned towards sending one Man; but this order "being neglected, if they send any *four* persons with a *Reeve* they "discharge their Duty. The Reeve I suppose was the Bayliff of the B "*Lord* of the Maner, or chief Tenent dwelling in the Maner House; "for as to the later it is observed still in some Towns, the *Maner* "*house* constantly finding *one Man* whom they *term* a *Reeve*. The "*Constables* are no more concerned in this Business than any other "Inhabitants, only upon the neglect of any Town for non-appearance, "the Bayliff of the Hundred takes distress of the Constable for the se- "veral Forfeitures made, which is twelve pence a Man. The place of "calling this Court is at the *Hill* called by the *name* of the *Hundred*. C

Sept. 12. 1683.

The very same Account I received from the Bayliff of the Hundred; and I have perused several ancient *Suit-Rolls* now in the possession of Sir *Thomas Hare Baronet*, the *Lord* of this *Liberty*, by which it appears, that all the *Lords* of *Maners* within the *Liberty* or their *Te-* D *nents*, and all Men of considerable Estates there, were *Suitors* to the *Turn*, to inform the Steward what Crimes had been committed in their respective Towns contrary to the Laws and Peace of the Nation. And as in process of time inconsiderable Men appeared at *County*, *Trihinge*, *Wapentach* and *Hundred Courts*, by reason of the great Suitors having * Liberty to make their Attorneys, so it might happen in the Sheriffs Turn by the *Negligence* or *Connivance* of the *Sheriff*, or *Stewards* of *Liberties*, or for that the pleas might be *removed* to the *Assizes* E before the *Justices* that came twice in a year.

* See Stat. of Merton, c. 10.

The Præpositus or *Reeve* according to * *Fleta* was an Officer under the *Seneschal* or *Bayliff*, who looked after the *Kings* or other *Lords Affairs*, in their Villages, as *Tillage*, *Cattle*, *Pasture*, &c. where see his Office described. *Misit Rex literas ad omnes Vicecomites Regni Angliæ præcipiens, ut de singulis Dominicorum suorum Villis*, (such Towns as they kept in their own hands) Quatuor legales homines *cum* * præ- F posito *apud sanctum Albanum pridie nonas Augusti facerent Convenire ut per illos & alios ministros suos de Damnis singulorum Episcoporum, & ablatis certitudinem Inquireret.*

* Lib. 2. c. 76. p. 164.

Mat. Paris. f. 239. n. 20.

* These were the Bishops Reeves, that managed those Lands for them.

Probi Homines, Probi & Legales Milites, Probi & Legales Homines.

PRobus Homo in such times as the words were understood, did not signifie an ordinary, or (as now they call him) an honest, though inconsiderable ignorant Country, or other Man; but on the contrary, the Probi Homines were *Famous*, *Stout*, or *Noted* Men, Nominales, Men of *Renown*, or *great Report*, *Integrity* and *Resolution*. *Mauritius Giraldi filius Stephanidæ frater uterinus*, vir probus & prudens. This was *Maurice Fitz-Girald*, one of the first *Adventurers* in the *Conquest* of *Ireland*. Peace was made between the Kings of *England* and *France*, as the same Historian tells us, *interventu* proborum Virorum *& præcipue* Philippi *Flandrensium* Comitis. After the Victory of King *Henry* the Second over the *Scots*, and *Earl* of *Leicester*, the same Historian speaking of the flourishing condition of *England*, says it happened, *præsidente* probo prudentique viro, *& inter utramque fortunam fidelissimo* (to the Father against the *Conspiracy* of his Sons and many of the Nobility) *Ranulpho Glanvillensi*. To whom he gives these Additions and Epithets, and names him *Virum magnificum* Ranulphum Glanvillensem *principalem & præcipuum Regis & Regni Consiliarium & Angliæ totius* Justiciarium.

Girald. Cambren. Hibern. Expug. lib. 1. c. 3. f. 761. n. 50

Ibid. c. 13. f. 767. n. 40.

Ibid. c. 44. f. 782. n. 30.

Ibid lib. 2. c. 31 f. 805. n. 50. f. 806. lin. 1.

Probi Homines were not only ordinary Men, void of such notorious Crimes as were under the correction of the Law; But Probity implyed *Activity*, *Understanding*, *Ability*, and *Virtuous Actions*. *Johannes de Curci de Dublinienſium familia*, *paucos ſibi alliciens*, *ſed* probos, *ſed* Strenuos, *ſed* Electos *cum Militibus viginti Duobus & aliis* 300 *Ultoniam aggreditur*. *Hugo de Lacy vir* probitate *pollens &* prudentia; he was than Governor of all *Ireland* under *Henry* the Second, *inter* Proceres *Regis Anglorum qui erant in Hibernia*, *Hugo de Laci præcipuus & præpollens habebatur*, *Guliel. Neubrig. lib.* 3. *c.* 9. *Esbernus frater Absolonis Archiepiscopi*, probitates & Gesta *majorum Commemorando plures ad Iter Hierosolymitanum animaverat*. *Mat. Paris* speaking of *Edward* the First, *Erat* Edwardus *revera vir Magnæ* probitatis *et* audaciæ *fortis insuper supra Modum*.

Ibid. c. 16. f. 794. lin. 1. &c.

Ibid. c. 17. f. 79. n. 30.

Kirchman. de profectione Danorum in Terram Sanctam, c. 5. Paris, f. 1005. n. 30.

The very learned *Du Fresne* in his Glossary says, probus is the same with preux in French, which signifies Miles *animo valens*, a valiant Knight, or Soldier. *Cotgrave* translates it also, *Loyal*, *Faithful*, *Sincere*, *Honest*, *Virtuous*, *Worthy*, likewise *Discreet*, *Skilful*, *Ready*. And the same Glossarist says that probitas is the same with Generositas, or animi magnitudo; Generosity and Greatness of Mind. The Reader may see his Proofs for further satisfaction.

It will add much to the discovery of what the Probi *et* Legales homines were, by noting what the Probi *et* Legales Milites were. In the Summons to Parliament, Cl. 49. Hen. 3. To the Sheriff, *Venire facias Duos de* Discretionibus *et* Legalionibus Militibus *ejusdem Comitatus*, &c. and in the Writ for their Expences, ibidem, m. 10. Dors. their Reasonable Expences were to be Taxed *de* Consilio Quatuor Legalium

Legalium Militum; Citizens and Burgesses were to be of the same Quality. Cl. 49. *Henry* the Third. *In forma prædicta scribitur Civibus Eborum, Civibus Lincoln et Ceteris Burgis Angliæ, quod mittant in forma prædicta Duos de* **Discretioribus, Legalioribus**, *et* **Probioribus** *tam Civibus quam Burgensibus suis. Rex Vicecom. Eborum*, &c. *Tibi præcipimus*, &c. *Duos de* **Probioribus** *et* **Legalioribus Militibus** *Comitatus tui eligi facias*, Cl. 25. Ed. 1. M. 6. Dors. *Rex Vicecom. Sussex, salutem. Præcipimus tibi quod diligenter inquiri facias in pleno* * *Comitatu tuo per Sacramentum Duodecim de* **Legalioribus** *et* **Discretioribus Militibus** *Comitatus tui, per quos rei veritas melius sciri poterit* (this was the end and intention of the Institution of Enquests and Juries) *Quas Consuetudines et quas Libertates Dominus Johannes Rex pater noster, habuit in Balliva sua die qua Guerra incepit inter ipsum et* **Barones** *suos Angliæ*,&c. Cl. 7. Hen. 3. M. 14. Dors. in the fourth of *Henry* the Third, *Carucage* was to be collected by two *de* **Legalioribus Militibus** *Comitatus.* See in Appendix Record 12. Rex Vicecom Huntingd. &c. *Tibi præcipimus quod de singulis Hundred. Comitatus prædicti venire facias coram dilectis et fidelibus nostris Hen. de Bathonia, et Will. de Wiltonia quos ad hoc Justiciarios nostros assignavimus in Comitatu ad diem et locum quos prædicti fideles nostri tibi scire facient, duodecim tam* **Milites** *quam alios* **Liberos** *et* **Legales Homines** *per quos hujusmodi Inquisitiones*, &c. Cl. 44 Hen. 3. M. 14. Dors. Rex, &c. *Tibi præcipimus, quod venire facias coram nobis à die Sancti Johannis in tres septimanas ubicunque fuerimus in Anglia, Decem et Octo tam* **Milites** *quam* **Liberos** *et* **Legales Homines** *de Comitatu tuo per quos plenius Certiorari possumus super Articulos*, &c. Cl. 51. Hen. 3. M. 4. *Præceptum est Vicecomiti Cornubiæ, quod assumptis secum Duodecim de* **Legalioribus Militibus** *in Comitatu suo in propria persona sua accedat ad Terram Richardi Regis Alemanniæ in Tybosta et Bravel, et Terras Henrici de la Pomerey in Tregony, et per eorum* **Sacramentum** *fieri faciat* **Perambulationem**, &c. Cl. 51 Hen. 3. M. 7. *Rex dilectis et fidelibus suis Richardo de Fukerham et Osberto de Bereford, salutem. Sciatis quod assignavimus vos ad Inquirendum per Sacramentum* **Probo-rum** *et* **Legalium Hominum** *de Comitatibus Salop. Stafford. et Cestr. per quos*, &c. *de quibusdam Juribus, Libertatibus, et rebus aliis nos et statum nostrum, necnon et statum Communitatis Comitatuum prædictorum Contingentibus; et insuper de factis et gestibus Vicecomitum et Ballivorum quorumcunque in Comitatibus prædictis, prout in Articulis quos vobis inde Tradimus plenius Continetur*, &c. These Articles were in Number 34, and about such Matters as it was impossible for ordinary Country-Men ever to be instructed in, or understand them.

* That was in a full County-Court.

Old *Glanvil* often mentions **Milites Legales**, that were to be summoned upon Juries, and **Liberos** *et* **Legales Homines** frequently, so the old Register, as also **Probos** *et* **Legales Homines.** What can be meant by these Restrictions upon Knights? and by these words **Probi, Discreti, Legales**? but that they were to be Knights of the best Estates, the best Understanding, most *Integrity* and *Knowledge* in the Affair they were to be imployed: For many in those times there were, that were not such, when every Man that was Owner of a *Knights Fee*, or *Twenty Pound per annum*, might be compelled to be a *Knight*, there must needs then have been many of them unfit for the dispatch of publick Business. And what can be meant by **Probi, Liberi** *et* **Legales Homines**, and the Restrictions made by those words, but that they

they were to be Knights Fellows, and after *Knights*, Men of the beſt Eſtates, of the beſt *Underſtandings*, and moſt *Knowledge* in their Counties, and moſt fit for the *Diſpatch* of *publick* Buſineſs; according to the meaning of the words *Duodecim tam* Milites, *quam alios* Liberos & Legales *Homines*, which were certainly *Tenents* in *Military Service*, as is clear from the word alios.

And it ſeems to me that the Legales Milites and the Legales Homines, in thoſe times had not that *Epithet* given them, for that they *were within the Law*; that is, becauſe they *were* not *Out-lawed*, *perjured*, *&c.* but becauſe they were ſuch as the Law by conſtant *uſage* then required ſhould ſerve on *Inqueſts* and *Juries*, that is, the moſt *diſcreet*, *juſt*, *knowing* and *reſolute* Men in the Country. Nor is it credible that any Freeman that then perhaps might be poſſeſſed of Ten Groats, Five or Ten Shillings by the year of * Freehold, (a better Eſtate than our Forty Shillings a year now) were ever intended to be part of the Probi & Legales Homines, or reckoned amongſt them, when they were bound to the Peace; and the Government and Law in thoſe times did not think it ſafe for the Peace of the Nation to truſt them with their own behaviour, ſeeing all ſuch *Maſters* of *Families* as theſe, were bound one for another, and for all their *Servants*, *Children*, and *Sojourners* by Tens. The Probi Homines then, were the *beſt*, *chief*, moſt *knowing*, and of the greateſt *Integrity* of thoſe *Orders* and *Degrees* of Men, to whom, and at the time the word probus or probi was very frequently, or if but ſeldom annexed, whether they they were Barons, Knights, Freeholders under that Degree, Citizens or Burgeſſes.

* What we call Freehold now, was not in thoſe times really eſteemed ſuch, the Land in Military Tenure was, had chiefly that reputation.

A B C

Theſe inconſiderable Men were forced upon Jury-work; they went not, nor were they forward to go to the Size, and Seſſions, (as they call them) upon which they now value themſelves as the Governors of the Nation; but by *Knavery*, *Oppreſſion* and *Bribery* were *driven* thither. For the *Military* and *Rich Men* finding it *troubleſome* and *expenſive*, threw the *Burthen* (as they always did) upon ſuch as were not able to bear it, by *bribing* the *Sheriffs* and *Bayliffs* to omit them, and make their Returns of ſuch ſorry ſilly People as the Law never did, nor could intend for this truly *great* Service, which they could not underſtand. Theſe ignorant Men were alſo forced upon this Imployment they were not fit for, by the *Villany* and *Oppreſſion* of *Sheriffs*, their *Bayliffs* and *Miniſters*, by extorting *Money* from them, that they might be *ſpared*, and permitted to remain at home. And for this the Statute of *Weſtminſter* the Second is good Authority, made in the 13th of *Edw.* 1. *A. D.* 1285. * Forasmuch also as Sheriffs, Hundreders, and Bayliffs of Liberties, have used to grieve those that be in subjection to them, putting into Juries and Aſſiſes Men diſeaſed and decrepid, and having continual or ſuddain Diſeaſe, and Men alſo that dwelled not in the Country, at the time of the Summons, and ſummon alſo an unreaſonable Multitude of Jurors for to extort Money from ſome of them, for letting them go in peace, and ſo the Aſſiſes and Juries paſs many times by poor Men, and the rich Men abide at home, by reaſon of their Bribes: It is ordained that from henceforth, That in one Aſſiſe (i. e. Jury) no more ſhall be ſummoned than Twenty Four; and Old Men above Threeſcore and Ten Years, being continually ſick, or being diſeaſed at the time

D E F

* C. 38.

time of the Summons, or not dwelling in that County, shall not be put upon Juries of petit Assises; Nor any shall be put on Juries or Assises, though they ought to be taken in their own Shire, that may dispend less Land than Twenty Shillings yearly at the least; (That is, the twentieth part of a * Knights Fee.) And if such Assises and Juries be taken out of the Shire, none shall pass in them but such as may dispend Forty Shillings of Land by the year at the least: A Except such as be * Witnesses in Deeds, or other Writings, whose presence is necessary so as they be able to travel.

* That is now 10 l. *per annum.*

* Antient Juries consisted of such persons that knew and understood the Controversie, and therefore were called *Testes*, and their Verdict *Testimonium.*

This Law not being thought a sufficient *Provision* against these *Oppressions*, there was a *Statute* made in the 20th of this King, and in the year 1292. the Preamble whereof runs thus; For as much as the Lord our King, by the continual and grievous complaint of his inferiour people, doth perceive that divers persons being of least B ability of this Realm, are many times intolerably troubled by Sheriffs and their Bayliffs, Bayliffs of Liberties, which Impannel them to the Recognisance of Assises, Juries, Inquests, and Attaints triable out of the Shires where they be dwelling, and do spare the rich people, and such as be more able, by whom the truth of the matter might be better known, *&c.* And then 'tis provided That None pass out of his proper County or Bayliwick, that hath not One Hundred Shillings per Annum; (which was the fourth C part of a Knights Fee) And none to be impanelled within the County that had not Forty Shillings by the year.

In the Statute called *Articuli supra Chartas*, C. 9. made in the 28th of this King, *A. D.* 1300. this Corruption having not been sufficiently prevented; The King willeth and commandeth, That no Sheriff nor Bayliff shall Impanel in Inquests nor in Juries, other many persons, nor others, nor otherwise than 'tis ordained by Statute, D and that they shall put on those Inquests and Juries, such as be next Neighbors, most sufficient, and least suspitious; that is to say, not suspected to *favour* one *party* or *other*.

And in a Statute made at *Westminster*, in the 42d of *Edw.* 3d. *A. D.* 1368. C. 11. 'tis provided, That in all manner of Panels arraped by the Sheriffs, or Bayliffs within Franchise, shall be put the most substantial people, and worthy of credit, and not suspect, which have E best knowledge of the truth, and be nearest.

For the same reasons, and by the same *corrupt practices* of *Sheriffs* and *Bayliffs*, this *inferior* sort of Men were *driven* to the *County Courts*, and by that means, as being *forced* to be *Suitors* there, became in process of time *Electors* of *Parliament*-Men, and by their numbers inabled to out-vote Men of *Worth*, *Knowledge* and *Integrity*, and of the greatest and best interest in their Country, especially since the Reign F of *Henry* the Eighth. That a third part of the Lands in the Nation that belonged to *Monasteries* and *Religious* Houses were made to be of *Soccage Tenure*, which is now accounted Freehold, have been divided in small parcels amongst very ordinary Men.

Those that season the *Noddles* of these Men with strange *Liberties* they are born to, That the *Power* of Kings, and *Origin* and *Authority* of

of all Government in the World is derived from them; and perswade them 'tis their *Birth-right* to tread upon Kings, to set up, and pull down what *Government* they please; or that the Common Law of *England* hath invested them with *Uncontroulable Privileges*, and *Sacred Rights*, did either not *know*, or *understand* the *Law* of *Franke-Pleges*, in practice here both in the *Saxon* and succeeding times, nor did they ever dream or understand they were *forced* and *driven* into most of these great *Advantages* they pretend to; which better Men than themselves cast upon them as a *Burthen*, intending thereby to make them their *Drudges*. A

Regnum & Sacerdotium; Regnum: Omnes de Regno; Alii de Regno; Homines de Regno; Homines Nostri de Regno. B

Secular and *Ecclesiastick* Government and Power are *meant* and *expressed* by those words **Regnum** and **Sacerdotium**, and they occur often in old Historians: *Petrus de Marca*, Archbishop of *Paris*, hath written a large Book in Folio, *De Concordia & Discordia inter* **Regnum & Sacerdotium**, Pat. 16. Johan. Parte Prima, M. 1. Dors. N. 3. *A tempore Ortæ Discordiæ inter* **Regnum & Sacerdotium**; and so Ibid. N. 4. Yet the *Bishops* and great *Clergy*, such as were *Barons*, or held *in Capite*, were comprehended in the word **Regnum**, or under the Secular Government in respect of their *Temporalties*, and were a Ministerial part of it. *In subsequenti Nativitate Domini* **Regnum** *Angliæ ad Curiam Regis Lundoniæ pro more convenit, & magna solemnitas habita est & sublimis.* The **Regnum** here is to be understood of the **Government** of the Kingdom, not of all the *Inhabitants* of the Kingdom, or the *Kingdom*, as it is a place wherein the *Inhabitants* are Resident: but by **Regnum** is to be understood both *Temporal* and *Spiritual* **Barons**, great and small, the Kings *Justices*, or any others that exercised any *share* or *Ministerial* part of the Government, as perhaps all these did, one way or other, by *coming* to great *Councils* or *Parliaments*, &c. All this is evident from the words of the Quadripartite History of the Life of *Thomas Becket*. *Rex apud Clarendune*, **Regnum** *Convocat* **Universum**: *Quo cum venissent* **Prælules & Proceres** *exegit Rex instantius ut sibi promissa solverentur*, &c. This **Regnum Universum**, the whole Kingdom here mentioned, was only the **Prælules & Proceres**, that is, the whole **Baronage**, called together by the Kings Writ, or a great and full meeting of the *Spiritual* and *Temporal* **Barons** both great small. And that this was the meaning of **Regnum Universum**, *Mat. Paris* puts it out of doubt. *Anno* 1237. (the One and Twentieth of *Henry* the Third) *Tenuit Rex Curiam suam ad Natale apud Wintoniam, misit autem Continuò per omnes fines Angliæ* **Scripta Regalia**, *præcipiens* **omnibus** *ad* **Regnum** *spectantibus, videlicet* **Archiepiscopis, Episcopis, Abbatibus, Prioribus** *installatis*, **Comitibus & Baronibus**, *ut omnes sine Omissione in* **Octabis Epiphaniæ** *Londoniis convenirent, venit igitur dies Sancti Hilarii Londonias infinita* **Nobilium** *multitudo*,

Eadmer, f. 105. lin. 5. circa A. D. 1109. Temp. Hen. I. D

Quadilog. lib. 1. c. 26. E

F. 435. n. 10. F

titudo, viz. Regni *Totalis* Universitas. In the year 1237. the King held his *Court* at *Christmas* at *Winchester*, and forthwith sent his *Writs* through all *parts* of *England*, commanding all that belonged to the *Government*, to wit, the *Archbishops*, *Bishops*, *Abbats*, *Priors* installed, *Earls* and *Barons*, to meet without *Omission* at *London* in the *Octaves* of *Epiphany*, to Treat about the Kings Business which concerned the whole Government. Therefore on St. *Hilaries* day came to *London* an infinite number of *Nobles*, that is to say, the whole *University* of the *Government*, or Kingdom. Here we see who the All were that belonged to the Government, only the *Archbishops*, *Bishops*, *Abbats*, *Priors*, *Earls* and *Barons*, and that they were the *infinite Multitude* of *Nobles*, and *whole University* of the *Government* or Kingdom.

Hence we know the true meaning of those words in the last Chapter of *Magna Charta*; Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, Liberi Tenentes & omnes *de* Regno *nostro* dederunt *nobis quinto-decimam partem omnium Mobilium suorum*, for granting the Liberties in both the Charters. The omnes *de* Regno here were the same with the omnes *ad* Regnum spectantes above, the Regnum, or Government, the Communitas Regni, the Totalis Regni Universitas, the Infinita Multitudo Nobilium; and also gives us the meaning of those words in * *Cl.* 19 *Hen.* 3. *M.* 6. *Dors. Rex Vicecom. salutem. Scias quod* Comites & Barones & omnes alii *de toto* Regno *nostro, &c. concesserunt, &c.* Which are further explained by a Record upon the same Roll, and about the same Business. * *Cl.* 19 *Hen.* 3. *M.* 6. *Dors. Rex Vicecom. Sussex, &c. Sciatis quod* Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones & omnes alii *de* Regno *nostro Angl. qui de nobis* Tenent *in* Capite, *nobis concesserunt, &c.* Here the omnes alii, *de* Regno nostro, were the omnes alii *qui de nobis* Tenent *in* Capite; which were the Regnum, or Communitas Regni, as hath been evidenced over and over. *Rex omnibus, &c. Cum venerabiles patres G. Eborum* Archiepiscopus *Angliæ primas, & alii* Prælati, Magnates, Milites, Libere Tenentes, *ac* omnes alii *de* Regno *nostro nobis nuper in Articulo necessitatis*, Servitium *fecerunt &* Subsidium, *&c.* Pat. 48 *Hen.* 3. *N.* 5. These omnes alii *de* Regno were the same with the other; and otherwise it could not be, for by omnes *de* Regno, *or* omnes alii *de* Regno, the *Inhabitants* in general could not be understood, for they never were summoned, the Hundreth part of them to meet in great Councils, 'twas impossible they should all meet: and perhaps not above a fourth part paid to this 15th, if we consider how many Servants, Villans, Bondmen, and such people there were then in the Nation that paid nothing. Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis *de Comitatu Kanciæ, &c. Sciatis quod* Prælati, Comites, Barones & *Ceteri* Magnates *de* Regno *nostro concorditer pro se & pro Tota* Communitate Regni *in pleno Parliamento nostro nobis concesserunt Quadraginta Solidos de singulis* Feodis Militum *in dicto* Regno, *&c.* This Writ could not be directed to *all* the *Men* in *Kent*, but to *all* such as *paid Scutage*; for not a fortieth part of them were *Tenents in Capite*, or *Military Service*; and therefore omnes Alii must always in Records be understood with a *reservation* or *restriction* to the *Matter* and *Business* intended and designed in and by that Record. And those words omnes Alii signifie no more than the words in many *Writs* or *Warrants*, and other Writings, All whom it may concern.

* Append. Record 14.

* Append. Record 15.

Homines *de* Regno are often to be taken in the same sense as we see Omnes *de* Regno many times are, especially if the words Nostri or sui be joyned with them. They do not *generally* signifie *all* the *Kings Subjects*, but frequently the *Tenents in Capite* only. So in other *Nations*, *Homines Appellari Cœpere*, Vasalli *& Clientes qui ratione Beneficiorum & Feudorum Dominis suis, speciali ad id facta professione, quæ ex hoc* Hominium *vel* Homagium *dicta est, Fidem & Servitium, seu Militiæ vel placitorum aut quodvis aliud debebant: Quia quidem Notione vocem Homine Consuetudines nostræ Municipales passim usurpant. Du Fresne in Verbo Homines.* A

Sapientes, Wites, or *Witen.* B

WHich mostly signifie *Noblemen*, or great *Lawyers*; Wita in *Somners Saxon* Dictionary, is first turned Optimas, a Nobleman, and then Sapiens, a Wiseman. In the *Laws* of *King* Ina it is ordained, That if any Man fought, or struck another in the House of an Alderman, or any other *Illustrious Noble* Wite, *Great Man*, or *Wiseman*, on other Gethungenes Witan, he was punished *sixty Shillings*. In the *Laws* of *Edward* the *Confessor*, *Aldermen* were called *Seniores, non propter Senectutem cum quidam adolescentes essent, sed propter* Sapientiam; Not for their *Age*, when as some of them were *Young Men*, but for their *Knowledge* and *Wisdom*. Hence from *Sapientia* the *Aldermen* were called *Sapientes*, Knowing, or Wisemen. C

Cap. 6. de pugna.

Sapientes.

Cap. 35. de Gerêve. Aldermen or Noblemen.

Spel. Concil. f. 510. 513.

The General Council at *Ænham ab Æthelredo Rege Edictum*, was called by King *Ethelred*, *Accersitisque* Episcopis, *&* Universis *Anglorum* Optimatibus, having summoned the Bishops and all the Chief Men, and the Title of the Laws is Be Witena Gyædnessan, *Decreta Sapientum*, The Decrees of the VViseмen. And many of the Chapters begin thus, And Witena Gerædnes is, c. 1. 5. 6. 7. and the Decree of the *Wites* or Wisemen is, *&c. Decernunt Sapientes*, Nu hæbbe ic Funden mid them Witum the æt Exanestre mid me Wæron To Middum Wintre. Now I found with those *Wisemen* which were with me at *Exceter* at *Christmas*, *&c.* In an exchange between King *Edgar* and the Monastery of *Ely* for Dicun, and Ceaslea, that is, *Ditton* and *Cheveley* in *Cambridgeshire*, after all the *Bishops* and *Abbats* had Witnessed and Corroborated the exchange, Eglaf signs it thus, *Ego Eglaf Comes, ratum Duxi stabilire* Sapientum *Decretum*, Histor. & Privileg. Eccles. Elienſ. penes Doctor. Gal. p. 117. b. *Post Obitum Eadgari Regis dum essent Rex Edwardus, & fere omnes* Sapientes *sui, apud Kyngstune Rogavit Ægelwinus* Alderman *Episcopum Æthelwoldum, &c.* Ibid. p. 63. a. These Sapientes were his Aldermanni *&* Taini, his Aldermen, Dukes, Earls and Thegns. D E F

Leges Æthelstani, Lamb. f. 53. n. 69.

Ethelwoldus Episcopus emit Grantedene pro Ducentis Aureis ab Henrico de Wanetinge, coram Testimonio Edgari Regis & Alferi Alderman. & Egelwini, & Brythnoth, et Alfrici Cyld et Ringulfi, et Thurvethi, et aliorum Sapientum *qui tunc aderant*, Ibid. p. 62. b. All these six *Wise-*

men

men are Witnesses to the Charter of Priviledges granted by King *Edgar* to the Church of *Ely*, in the year of Christ 970, and of his Reign the 13th, and they sign thus, Alfere Dux, Egelwine Dux, Byrhnoth Dux, Þringulph Minister, Thurferth Minister, Alfric Minister, Ibid. p. 83. b. 85. a. p. 85. b. 87. b.

Bede, in his *Ecclesiastical History*, tells us, That *Paulinus* labouring with *Edwin* King of *Northumberland*, to receive the Christian Faith, he resolved first to consult *cum amicis*, Principibus, *et* Consiliariis *suis*, with his *Friends*, *Princes* and *Counsellors*, &c. which in the Saxon Version of *Bede*, done by King *Alfred*, are thus expressed; That he wold Mid his Freondum, and mid his Ealdormonnum, and mid his Witum Spræce on Gerheaht habban. *Verbatim*, That he would with his *Friends*, and with his *Aldermen*, or *Princes*, with his Wites or *Counsellors speak* and *advice* have. Here we see Principes turned by Aldermen, and the Kings *Counsellors* by Wites. Lib. 2. c. 13. f. 141. Counsellors.

Asser in the Life of King *Alfred* reports, That he being accustomed to Rehear Causes, which in his absence had been heard and adjudged in his Kingdom; admiring the *Ignorance* of his *Earls*, *Prefects* and *Ministers* (Thegns) commanded them either forthwith to lay down their *Places* of *Judicature*, or to apply themselves Sapientiæ *Studiis*, to the *study* of *Knowledge*, or of the *Law*. Here we see again *who* had the *Title* of Sapientes, namely the *Judges*, that is, the Comites, Præpositi, *et* Ministri, or *Thegns*, for these last were the *Seminary* of *Nobility*, or *Great Officers*, *Civil*, *Military*, and *Ecclesiastick* amongst the *Saxons*. In a case so perspicuous I shall produce but one or two Examples: King *Edgar* having ejected the *Clercs* and restored *Monks* to the Monastery of *Malmsbury*, and by Charter made *Alfric* Abbat thereof, restored also to that Monastery a Parcel of Land, with Meadows and Wood belonging to it, which one *Adelnoth* a *Contentious* Person, had unjustly possessed himself of. But (*subtili disceptatione à* Sapientibus *suis auditâ*) his subtile Pleadings being heard by the Kings *Judges* (for so Sapientes must be rendred here) in the presence of the *King*, notwithstanding his lying Evasions, he was convinced, and the Land returned to the Monastery. Fol. 21. n. 20. 30. *Sapientes* were Judges, Earls, &c. Ingulph. Hist. Croyl. fol. 503 b. l. 7. & n. 10. They were Lawyers.

So in the Auctuary to the 35 Law of *Edward* the Confessor, 'tis said, *Erant et aliæ potestates*, *et dignitates*, *per provincias et patrias universas et per singulos Comitatus totius Regni constitutæ*, *qui* Peretoches *apud Anglos Vocabantur*, *scilicet* Barones, Nobiles, *et insignes* Sapientes, &c. And there were other *Offices* and *Dignities* established through all the *Provinces*, and every *County* of the whole Kingdom, which the English called *Heretoges*, (in King *Ina*'s Laws *Here-Thegns*) that is to say, *Noble Barons*, and *Illustrious* Wites, or *Wisemen*, called in Latin *Ductores Exercitus*, Generals of, or Great Officers in the Army. *Greg.* of *Tours*, *Radovicus*, and many of the Foreign Antient Historians, mention Sapientes as *Lawyers*, *Counsellors*, *Judges*; and amongst the Modern Foreign Lawyers, *Hottoman* and *Calvin*, say expressly, they were such. But perhaps not of the *Inferiour* Rank, no more than the *Saxon* Sapientes were, of which their Witenage-motes only consisted. And we have at this day the Judges, and Kings Council, and other great Lawyers, that sit in the Lords House, and are assistant to the Parliament, when there is occasion. Lamb. fol. 147. Tit. de Heretochiis. In verbis.

Per

Per Laudamentum **Sapientum**, *i. e. Consilio Jurisperitorum Cujac. de Feud. Lib.* 1. *Tit.* 17.

Grand. Custom. Norm. c. 9.

Les Juges sont **Sages** *persons & autentique, qui en Court font Jugement de ce quils Oyent sicome les Archevesques, Evesques, Chainons des Egliſes, Cathedraux, &c. & les Abbees, les Prieurs Conventual, &c.* The Judges are *Sage* or *Wiſmen*, and *Authentick*, which give Judgment in Court according to what they hear, as *Archbiſhops*, *Biſhops*, *Canons* of *Cathedral* Churches, *Abbats*, and *Priors Conventual*, *&c.* Of the *Judges* of the three *great Courts*, the **Aſſize**, the **Exchequer**, and **Court** before the *Duke*, where all great Matters were determined, 'tis ſaid, *Et eſt pour ce tel Sieges ſont plus Grandement garnir de* **Saiges** *Homes, que autres Sieges purquoi les querelles y povent Eſtre plus diſcreetment Determinees.* What more frequent amongſt us than the Sages or Wiſemen of the Law? Accordingly the old Regiſter of Writs, Printed by *Raſtal* 1531. f. 9. a. *Vide Opinionem* **Sapientum** *&* **Juriſperitorum** *quod nemo poteſt facere Attornatum*, &c. A B

Tenentes in Capite de Rege.

C

BEſides the *Tenents in Capite* by *Military Service*, and ſuch as were bound to *Military Service* in and by their Tenure in *Serjantie*, there were *ſmall Tenents in Capite* by ſmall Serjantie.

Inter Communia Term. Sancti Mich. 47 Hen. 3. in Scaccario.

Robertus le Mercer de Northampton reddit ad Scaccarium quatuor ſena Equorum cum Clavis, pro quadam Domu quam tenet de Rege **in Capite** *in Northampton.*

Ibidem.

Will. Nowel reddit ad Scaccarium unum par Calcarium deaurat. pro quadam terra quam de Rege Tenet in **Capite** *de Denton & Hockling in Comitatu Kanciæ.*

Ibidem.

Magiſter Ricardus Cocus reddit ad Scaccarium unum par Chirothecarum pro quadam Domo quam de Rege Tenet in **Capite** *in Judaiſmo London.* D

Theſe were of ſmall account, the Tenents in *Military Service* were only the *conſiderable Men.*

Vaſallus.

E

Hottom. de Verb. Feud. Col. 962. D. Ibid. col. 914. D. Ibid. de Feud. Diſput. Col. 810. F.

Vaſallus diminuto Vocabulo, inferioris Ordinis Cliens, was a ſmall Military Tenent, or Feudatary. *Clientes in his Libris* (meaning the Feudal Books) *paſſim* **Milites** *et* **Feudatarii** *appellantur.*

Vaſallorum conditio tota non modo Libera atque ingenua, verum etiam plane **Militaris** *erat, a quo vitæ genere ſervos omnes ſub Pœna Capitis arceri nemo Mediocriter quidem eruditus ignorat.*

Ibid. Col. 811. B.

Propria, perpetua, & ordinaria Vaſallorum conditio hæc eſſet, ut ſimulatque Bellicum inſonuiſſet cum Armis decoris et Equis Militaribus præſto ſuis Patronis eſſent. F

Ibid. in Feud. Commentar. Col 771. B.

Feudum non ipſo Jure ob Vaſalli crimen patrono committitur, ſed **Pa**rium *ſententia cauſa cognita ei abjudicatur.*

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